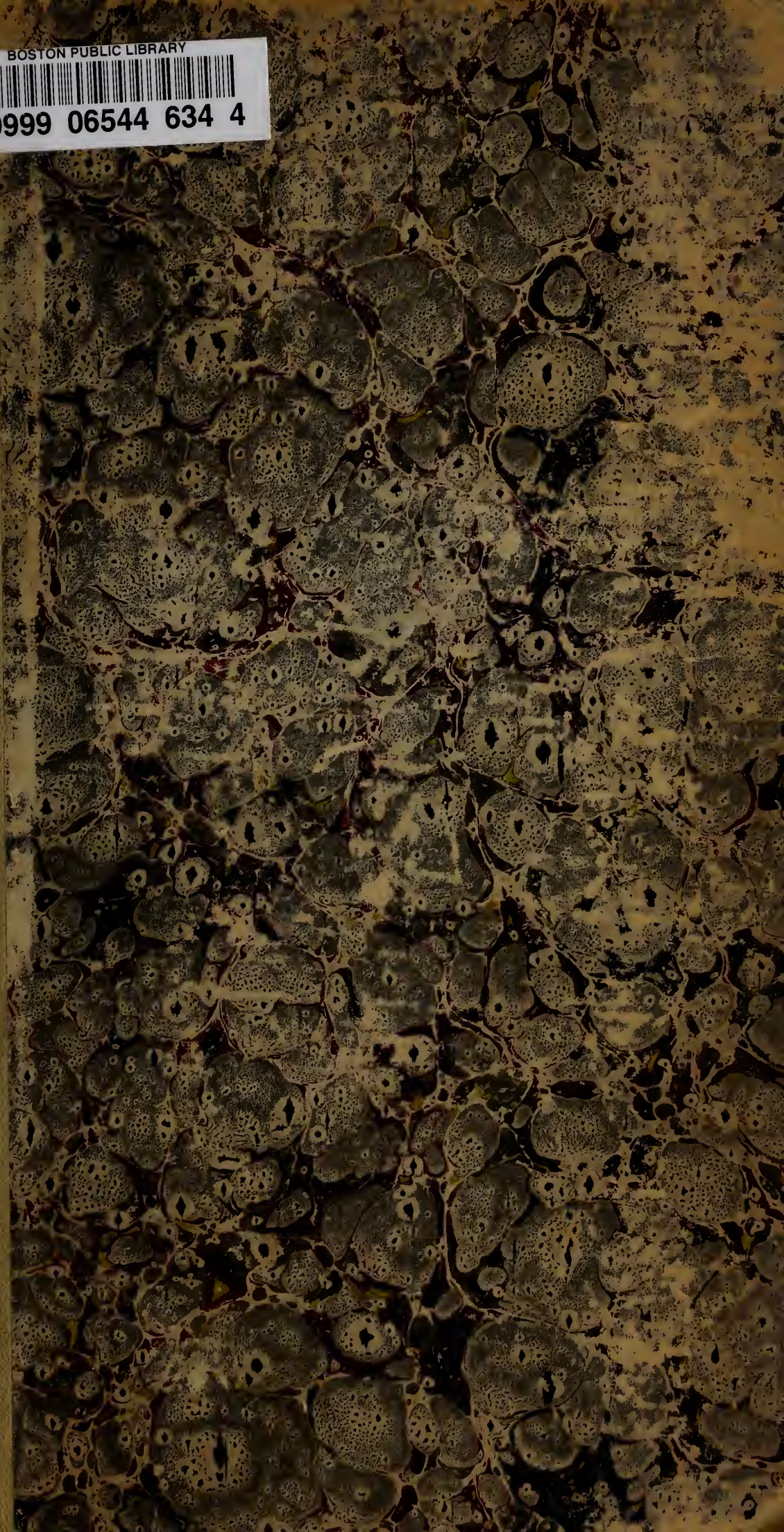


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**METROPOLITAN WATER BOARD INVESTIGATION.**

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**ARGUMENT**

OF

**J. H. BENTON, JR.,**

BEFORE

JOINT SPECIAL COMMITTEE OF MASSACHUSETTS  
LEGISLATURE.

---

**MAY 10, 1900.**



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LEGISLATURE.**

**MAY 4, 1900.**



**BOSTON :**  
**ROCKWELL AND CHURCHILL PRESS.**  
**1900.**





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## ORDER FOR INVESTIGATION,

JAN. 31, 1900.

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*Ordered,* That a Joint Special Committee, to consist of eight members of the House and such as the Senate may join, be appointed to inquire into alleged violations of the labor laws and the liquor laws of this Commonwealth, in the construction of the Wachusett Reservoir and the alleged extravagance and favoritism of the Metropolitan Water Board in the expenditure of public moneys, “and shall also investigate cases of settlements in which the Commonwealth was required to reimburse the City of Boston for land damages paid in connection with the construction of said reservoir.” Said Committee shall report in writing to this General Court, on or before April 1st, their findings, and make any recommendations necessary or proper to abolish the so-called “padrone system,” and recommend the enactment of such legislation as will restrain said Board from further waste of public moneys, if such waste is proven; and said Committee shall have power to summons persons and papers.

## JOINT SPECIAL COMMITTEE OF INVESTIGATION.

---

HON. THOMAS POST, <i>Chairman</i> ,	}	. . OF THE SENATE.
“ HENRY C. ATTWILL,		
“ WILLIAM B. MAHONEY.		

WILLMORE B. STONE, <i>Chairman</i> ,	}	. . OF THE HOUSE.
CHARLES T. TATMAN,		
JOHN H. COLBY,		
HARRY D. HUNT,		
MELANCTHON W. BURLIN,		
MATTHEW M. MANSFIELD,		
JOHN Q. A. PETTENGILL,		
J. MYRON MOORE, <i>Clerk</i> .		

## TWENTY-SEVENTH HEARING.

---

STATE HOUSE, BOSTON, MASS., May 4, 1900.

The Committee met at 9.30 A.M., Senator Post presiding.

### ARGUMENT OF J. H. BENTON, JR.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: You have sat for twenty-six days, and listened patiently to everything that anybody had to say with reference to the Metropolitan Water Board, or with reference to anybody connected with the work of that Board. You have had the advantage of the assistance of counsel for the prosecution of that Board, and the conduct of that prosecution has been characterized by the industry and skill and persistence and ability which characterize everything that my brother does professionally. If there is anything which could be called for, if there is anything that could be said, by anybody, against the Water Board, or any of its agents or the officials or contractors under it, from the organization of the Board down to the present time, that has not been said, it has not been for lack of opportunity or for want of competent counsel to present it.

It seems to me that two things are very clearly shown as the result of all this work. One is the magnitude and importance of the work which the Commonwealth undertook to do in the county of Worcester for the benefit of the Metropolitan Water District by the machinery of this Metropolitan Board. I doubt if anybody who does not go and look at it, as you have done, most of you, I think — at least, a portion of it — I doubt if anybody who does not go over the work which has been done has any idea of the

extent and importance and magnitude of the work which was confided to this Board of three commissioners. And the other fact, which it seems to me stands out without any question, is the *integrity and fidelity and care and ability* with which these commissioners have conducted this work in the interest of the tax payers who are to pay for it.

They are not prosecuted, their conduct is not challenged, because they have not been honest, or because they have not been faithful, or because they have not carefully administered the financial affairs of the Commonwealth in their charge. They are not brought under investigation because they have wasted the money of the tax payers, because they have been corrupt, or because they have been inattentive to their duties. Their conduct is not challenged upon the ground that they have not economically and honestly and carefully discharged the duty imposed upon them by the Legislature of expending these vast sums of money for the benefit of the tax payers who are to pay for it.

This conduct is complained of by those who have not been able to induce them to pay as much money out of the treasury of the State as the complainants thought they ought to pay. That is one class of complaints. And their conduct is also complained of by another class, to wit, a small portion of the business men of Clinton, who think that something or other might be done which would *give them a little more trade*. Here is Mr. Tate, the most efficient, most persistent, most constant attendant from Clinton that we have had ; and you remember when I asked him what his interest and that of his colleagues was in this, "Why," he said, "a matter of business ; we want things so conducted that the trade will come to us in Clinton."

I think it is a remarkable condition of affairs, that servants of the Commonwealth, having no personal interest in this matter, conceded to be honest, whom nobody claims have wasted the money of the taxpayers, men of the highest character, reputation and standing, are brought under inves-



*tigation at the instance of people whom they have prevented from getting from the treasury of the Commonwealth all the money they thought they ought to get.*

In the space of an argument I cannot cover this entire subject which has been covered by the so-called "testimony" introduced before you, but I want to call your attention in the beginning to what I have no doubt you have pretty clearly in your minds: the scheme of this act. And I do that because I feel that the people in Worcester County have an idea that in some way or other this Water Board are responsible for an invasion of Worcester County.

There has been an invasion of Worcester county, gentlemen. The Commonwealth, acting by its Legislature, carved out a district, consisting of Boston and other cities and towns, with an area of about 117 square miles and a population of nearly one million people, and undertook, without any vote of that district or of any part of it, to give them a supply of water. Wisely, undoubtedly. The district needed it, Boston needed it. To do that the Legislature had to go into Worcester county and take from towns in that county large portions of their area. They took in Southboro' over 9,000 acres or about 22 per cent. of the total area. They took in Clinton nearly 4,000 acres, about 30 per cent. of the area. In Boylston about 12,000 acres, or 23 per cent.; and in West Boylston over 8,000 acres, or 11 per cent., and in Sterling two per cent.

Now the *Legislature* did this: They required this Metropolitan Board to take land in these towns, just as they required the taxpayers of Boston to pay. The peculiarity of this Water Board act is this: that, in the first place, by the instrumentality of a commission appointed by the Commonwealth it took large areas of land and important water rights in Worcester county, without any action by anybody in Worcester county; and then that it required Boston and other towns and cities in the Metropolitan district to pay the expense of these water works without having the

slightest voice either in the taking or in the question of what was to be done. The function of the taxpayer in Boston or in any part of the Metropolitan District in respect to this Water Board matter, the sole and only function of the taxpayer, was *to draw his pocket book and pay*.

It may be that this great work could be carried out in no other way. The Legislature thought so. *The Legislature did it*. The *Legislature* invaded Worcester county, and the *Legislature* required Boston and the Metropolitan District to pay without any reference to whether the citizens of either locality desired to have the invasion or desired to pay.

The Metropolitan Water Board was established under the provisions of Chapter 488 of the Acts of the year 1895, approved June 5, 1895, and a proper consideration of this matter requires a knowledge of the purpose and scheme of that act, and of the scope of the powers and the extent of the duties of the Board appointed under it, as well as knowledge of what has been done and is being done by the Board.

This act was the result of a report made by the State Board of Health, by direction of the Legislature in 1893, upon the question of a water supply for the city of Boston and its suburbs within a radius of ten miles from the State House, and for such other cities and towns as in its (State Board of Health) opinion should be included in connection therewith.

See an act relative to procuring a water supply for the City of Boston and its suburbs, Chap. 459, Acts 1893.

The purpose of this act was to provide the cities of Boston, Chelsea, Everett, Malden, Medford, Newton, and Somerville, and the towns of Belmont, Hyde Park, Melrose, Revere, Watertown, and Winthrop, constituting by the act the Metropolitan Water District, with a sufficient supply of pure water, and to furnish a sufficient supply of pure water to any other city or town, any part of which is within ten miles of the State House, which should apply to be admitted into said water district.

To accomplish this purpose, the act provided for the appointment by the Governor and Council of three commissioners; who should constitute the Metropolitan Water Board, one of said commissioners to be always a citizen of Boston, one always a citizen of one of the other cities or towns in the district, and one always a citizen of the Commonwealth. One of these commissioners was to be designated by the Governor as chairman, and receive a salary of \$5,000 a year; the others were to receive salaries of \$4,500 each a year; and each commissioner was to be subject to removal by the Governor and Council at any time.

This Board, thus constituted and acting for the Commonwealth, was to construct, maintain, and operate a system of Metropolitan Water Works to supply the cities and towns named above, and such other cities and towns as should be admitted into the district, with a sufficient supply of pure water, and was directed to take by purchase or otherwise all the water supply, pumping stations, pipes, and other property held by the city of Boston for its water supply, including the pumping station at Chestnut Hill, Brookline, Spot Pond in Stoneham, and any other lands, easements, rights or other property that they might deem necessary or desirable for furnishing the water supply provided for by the act.

Boston had then partially constructed a reservoir in the town of Southborough, and the act required the Board to complete this work and carry out the agreements with the city of Boston in respect to it.

The act also provided that the Board should take by purchase or otherwise, the waters of the South Branch of the Nashua river at and above a point in the town of Clinton, and certain other waters and tributaries thereof in Clinton, and construct a storage reservoir upon the Nashua river above that point in Clinton, and take by purchase, or otherwise, all real estate which would be submerged or flooded to an increased depth by the construction of the reservoir. This reservoir would exist in the towns of Clinton, Boylston,



and West Boylston, and is known as the Wachusett Reservoir, although that name is not given to it in the Metropolitan Water Act. The estimated expense of this work was \$19,045,800, with an added expense for increase after the first ten years, bringing it up to something over twenty-five millions of dollars.

The scheme of the act was that this expense should be paid primarily by the Commonwealth, and repaid to the Commonwealth by the different cities and towns which had their water supply furnished under the act. The State Treasurer was directed to issue bonds payable in not less than thirty nor more than forty years, and sell them with the approval of the Governor and Council. He was also directed upon issuing any of the bonds to establish a sinking fund, and determine the amount to be paid thereto each year sufficient to extinguish the debt at its maturity. The result of this was designed to be, and will be, that upon the maturity of the bonds issued to pay for these works, the works will be paid for and belong to the Metropolitan Water District.

In other words, Boston and the other municipalities in this district will have had provided for them by the machinery of the Commonwealth through this Metropolitan Water Board, and upon the low interest-bearing bonds of the Commonwealth, an abundant water supply at the lowest possible expense.

It will be seen that in this the Commonwealth has no pecuniary interest. It simply provides machinery by a Metropolitan Water Board by which a water supply is to be furnished to the cities and towns in the Metropolitan Water District, and pays for this water supply and is reimbursed by the cities and towns in the district, so that the net result will be that the Commonwealth has provided the water supply, and that Boston and the other cities and towns in the district have paid for it. Neither the Commonwealth, nor any city or town outside the district has the slightest



pecuniary interest in this enterprise. The portion of the gross expense incurred by the Commonwealth in this work is repaid to it by Boston and the other municipalities in proportions as follows :

Boston in the proportion which its valuation bears to the total valuation of the entire Water District each year ; the other cities and towns pay the remainder not thus paid by Boston in proportions fixed according to their valuation and population each year.

The proportion which Boston pays is *eighty-two per cent. of the entire expense.*

No city or town in Worcester County pays anything.

To carry out this work the Governor required three commissioners. In the first place he wanted a chairman of that Board of absolute and known integrity, because the work was so great, and was a work with which the tax-payers had nothing to do. He selected a man who had served in the city government, in the lower branch of the Legislature, — I do not like that term, — in the House, and in the Senate ; who had been called to preside over the Senate ; who had once been unanimously elected the presiding officer of the Senate ; who had served for a quarter of a century, I think, upon the unpaid Board of our City Hospital ; a man so well known throughout the Commonwealth as an inflexibly honest and competent man, that a distinguished citizen said, when there was talk about this investigation, " Why, I should as soon think of investigating the Apostle Paul as Henry Sprague." And everybody said he was right, because they knew that the name of Henry H. Sprague was a guarantee of honest and faithful service.

Then he chose a younger man, Mr. Wilmot R. Evans, not so well known in public life then, but so well known in financial circles that his name was an absolute guarantee that there would be no financial mistakes and no extravagance and no favoritism where he had anything to say.

Then he naturally took an engineer, and he chose Mr.

John R. Freeman, who has been before you, one of the ablest, one of the most distinguished engineers in New England, especially in matters pertaining to hydraulics, and a man of the highest personal character. And thus Governor Greenhalge made up this commission, and the Council unanimously confirmed his choice.

Then the commission had to have a secretary, an executive officer, and they took another man known in public life, Mr. William N. Davenport, who had served in both branches of the Legislature, who had been two years mayor of Marlboro, who was born in the town of Clinton, I think, or in an adjoining town in the Wachusett Valley where this work was to be done, and they made him their executive officer. Then they took Mr. Frederick P. Stearns, an eminent engineer who had been an engineer for the Board of Health in making the investigations upon which the Water Board act was based. And thus equipped, with three well-known citizens of the highest character, with an executive officer as capable, probably, as could have been found in the Commonwealth, and with a competent engineer who knew the entire matter, this commission began its work.

Of course they began in an atmosphere that was critical. They had to conduct their operations in towns where people were disturbed by the work, in towns where a considerable portion of the taxable area of the town was absorbed by the work; and, naturally enough, the people of Southboro', one of the most beautiful places in Massachusetts, were disturbed. They didn't like it. They didn't want this work carried on. The people of Clinton were disturbed. The people of Boylston and West Boylston and Sterling were disturbed. Their churches were disturbed, their houses were removed, their burial grounds were to be disturbed. Water works were to be established on an immense scale within that territory, and unavoidably, necessarily, the people of those districts were in a critical attitude. I should have been if I had lived there. They were just in the condition to find fault, and if

you gentlemen had lived in those towns you would have been in that condition yourselves.

Under these conditions the Board went on with its work. You have seen a part of what has been done physically. The Board have created by their own operations and works in these districts, property which has cost something over twelve millions of dollars ; reservoirs and aqueducts, and pipes, the Clinton Sewage Works, the drainage, the dams and everything. The commissioners have spent in four years, economically — too economically my brother says, because he says the contracts have been let too low — they have spent twelve millions of dollars in about four years in physical construction in this district.

Of course they have disturbed people. They couldn't help it. Of course they have had contractors that didn't behave themselves. They never do, quite. Of course things have happened that ought not to have happened. They always do. But think of it ! Think of creating in this Metropolitan District, *by force of construction in four years, property costing over twelve millions of dollars!* They have operated in numerous towns. They have operated in the Metropolitan District within ten miles of Boston by contracts under which Italian labor has been employed ; in Stoneham, in Boston, in Melrose, and other places within ten miles of the State House.

When the Board entered upon its work in July, 1895, it assumed, as the act required it to do, the contracts which had been made by the city of Boston for the construction of the dam and reservoir in Southborough and Marlborough, and in January, 1896, they took, as the act required, from the city of Boston all of the property included within the limits of the Southborough and Marlborough reservoir. New contracts were let for the completion of the work and the reservoir was completed.

The Board have also constructed an aqueduct from the Nashua river in Clinton to the reservoir at Southborough, a



distance of twelve miles, two miles being a tunnel from Clinton to West Berlin, and seven miles a masonry aqueduct through Berlin and Northborough to a point in the city of Marlborough, and three miles of open channel from Marlborough to the reservoir at Southborough.

They have laid about sixty-five miles of main pipe in various parts of the Metropolitan District to connect the supplies of the different cities and towns with the main water supply. They have increased the pumping-station facilities at Chestnut Hill, and are now building a new pumping-station at Spot Pond, which has been deepened and improved, and its capacity largely increased, the level of the pond being raised nine feet above its original level. They have also completed a reservoir in the Middlesex Fells for the high service in the northern part of the district which is now in use. They have also constructed gate-houses and other necessary buildings for the distribution of water throughout the district. In Clinton they have done a large amount of work preliminary to the construction of the great dam, and made extensive excavation for the foundation of the dam. Contracts have been let for the stripping of soil, building of dikes, and other works in the Wachusett District, some of which have been completed, and some are now in process of execution.

They have taken Crane Swamp, so-called, in Northborough, Westborough, and Marlborough, and ditched it for purposes of draining and getting rid of the stagnant water. They have ditched many other tracts of low land lying near to the reservoirs and aqueduct in the towns of Southborough, Northborough, Westborough, Boylston, and the city of Marlborough. They have constructed a large number of miles of new road to take the place of roads discontinued, and the larger part of it has been macadamized.

They have constructed filter beds for the purification of the water entering the Sudbury reservoir at Marlborough Junction, and all the water going down through Marlborough Brook, so-called, is filtered before being allowed to enter



the reservoir. They have also constructed, at the expense of the district, a sewage system which is now being maintained for the benefit of Clinton in that town.

The district now supplied with water by the Metropolitan Water Board contains about 117 square miles, and has a population of more than 800,000 people.

The value of the water works property which the Board has created for the district by its own work is about \$12,000,000. It has also acquired other property from Boston for which it has paid on account about \$6,000,000, making the total expenditure to Jan. 1, 1900, about \$18,000,000.

The Board has also settled over five hundred claims for lands, water-rights, and injury to property, etc., for which there has been paid \$3,068,692.70. These claims were for land taken, for diversion of water, for injury to business, for loss of employment, etc. The actual amount of money which has been paid out by the Commonwealth up to January, 1900, on account of the work of the Board has been \$18,333,861.52.

The administration expenditures of the Board including the salaries of the Board and of its immediate officers, and its sundry expenses, has been only about *eight-tenths of one per cent. on this amount.*

The work of the Board and of the contractors has been carried on in the following cities and towns: Clinton, Boylston, West Boylston, Sterling, Lancaster, Berlin, Northborough, Marlborough, Southborough, Framingham, Everett, Wellesley, Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Lynn, Malden, Medford, Melrose, Milton, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, and Watertown. Contract work has been done under contracts by Italian labor more or less in all these places, under the same conditions which have existed in the Wachusett District.

Labor has been thus employed within ten miles of Boston in the following places :

## SHANTIES ON WORK OF THE DISTRIBUTION DEPARTMENT.

Laborers employed by contractors on work for the Metropolitan Water Board in the Metropolitan District have been housed in shanties or dwellings as follows :

Character of Work.	Location of Shanty.
Pipe-laying . . . .	Mountain ave., Melrose.
“ “ . . . .	Tremont st., Everett.
“ “ . . . .	Near Highland ave., Malden.
“ “ . . . .	Near Commonwealth ave., Newton.
“ “ . . . .	Near Adams st., Milton.
“ “ . . . .	Medford st., Malden.
Gate-house and construction, Spot Pond,	Mountain ave., Melrose.
High-service reservoir,	Mountain ave., Melrose.
“ “ “	East of Highland ave., Malden.
Pipe-laying . . . .	Morton st., West Roxbury.
Pumping-station . .	Near B. & A. R.R., Brookline.
Pipe-laying . . . .	Beach Road, Nahant.
Pumping-station . .	Mountain ave., Melrose.
“ “ . .	Near Border road of Fells Reservation.
High-service reservoir,	Near Border road of Fells Reservation, Washington st., Melrose.
Pipe-laying . . . .	Near Mystic River, Arlington.
Drainage system, Spot Pond . . . .	Water Board land, Stoneham.
Dams at Spot Pond .	Water Board land, Stoneham.
Improvement of Spot Pond . . . .	Metropolitan park land.
Improvement of Spot Pond . . . .	Water Board land, Stoneham.
Improvement of Spot Pond . . . .	Water Board land, Stoneham.
Improvement of Spot Pond . . . .	Water Board land, Stoneham.
Improvement of Spot Pond . . . .	Water Board land, Medford.

And yet, although the people have been disturbed, although the people of Worcester County have naturally felt in these towns that something was being taken out of them for the benefit of Boston, although there has been every reason why fault should be found if the work had not been well done, there has been no complaint of the conduct of the Water Board until this order was introduced by the member from Clinton in January.

In the first place, there was no complaint to the Governor and Council. Under the metropolitan water act the Governor and Council were authorized to remove any one of its commissioners at any time. The commissioners are executive officers, and can be dealt with only in that way ; and I call your attention right here to my brother Choate's suggestion in the brief which he has filed this morning :

"Two things can be done to remedy the abuses which have been permitted to flourish. First, a change in the personnel of the Board, or at any rate a change in its chairman."

I suppose that is because brother Choate personally hates Sprague more than he hates Evans and Walcott. I don't know any other reason, why he speaks of the chairman.

All of the Board have done these things of which he complains. He says further :

"This, without legislation we believe would, with the selection of a strong, vigorous, broad-minded business man, who would devote his whole time to the work, remove all existing dissatisfaction and ensure the prevention of future abuses and violations of the law."

Why didn't he get the Governor to do it?

MR. CHOATE. — We are trying to now.

MR. BENTON. — Then why do you come here? No ; you didn't come here for *remedy*, you came here for another purpose, which I think the Committee understand. I do not mean you personally. This order was not introduced for a *remedy*. Everybody knew just what Mr. Choate says, that the remedy for any difficulty, the remedy for any abuse, the



remedy for any misconduct of these commissioners, was in the hands of his excellency the Governor, who could act instantly, with the advice of his council. But four years have gone by, while all these things that are complained of have been going on ; and, with the knowledge that the Governor and Council had what is now admitted to be an adequate and complete remedy, nobody ever asked the Governor and Council to act, or made any complaint to them, and that is conceded.

There is another remedy in the act, and that is by application to the court in equity. How far that would be a remedy for the things complained of I do not know and I do not care, because *the swift, the sure, the proper remedy, was an application to the Governor to remove the commissioners, one or more of them.* That application was not made. On the contrary, when Mr. Freeman resigned in April, 1896, because he had removed to another State, the Governor appointed Dr. H. P. Walcott, the father of the Metropolitan Water Board Act, the man who comes here with more reputation behind him for unpaid public work than any man in the Commonwealth, and who tells you that this work has been well done, and makes his own statement to you as an official. He is the man who is as responsible as anybody, more responsible possibly than anybody on the Board, for much that is complained of. That man was appointed to fill out Mr. Freeman's term, and then he was reappointed by the Governor and unanimously confirmed by the Council at the end of Mr. Freeman's term. Then came round last July, *after all the things complained of had occurred*, after the abuses which Mr. Choate says in his brief had been practised in Southboro' in 1896 and 1897, — and by the way there is no evidence of any abuses in Southboro', and there couldn't have been any probably, because Brother Choate or his father was chairman of the selectmen at that time, and they didn't allow any abuses in that town, — but after the abuses and the conduct of the Water Board which are now com-



plained of *had been going on for nearly four years*, and Evans had been for three years a party to all this, — allowing the Italians to have beer, allowing the contractors to hire by the hour, allowing the contractors to hire Italians and to hire contractors that would work the cheapest, letting the contracts to the lowest responsible bidders regardless of whether they came from Philadelphia or from City Hall, — while all these things had been going on, for which the prosecutors say the Board are responsible, Mr. Evans *was reappointed and unanimously confirmed, and nobody objected*. And yet Worcester county had two members of the council, if I am right: Mr. Howe, of Marlboro', and Mr. Jefferson, of Worcester. Do I state their residences correctly?

MR. CHOATE. — Mr. Howe is from Middlesex.

MR. BENTON. — Very well; he is very near this locality, if it is Middlesex. And during a portion of this time Mr. Joslin, of Worcester county, was also in the Council. The Governor and the Council have had knowledge of all this work. It has all been done with the utmost publicity. Every penny of the expenditure has been vouched from the State treasury. That has all been explained by me before; I won't go over it again. Reports have been made each year to the Legislature. Legislative committees have visited these works and seen what was going on. Representatives have come to the Legislature from all these towns and cities in Worcester county and in the district. The Governor, recognizing the fact that this was executive work going on practically under his direction, has visited the works and alluded to the work in his annual messages; and if you will take the trouble to look at the annual message each year you will find a statement with regard to the work of the Metropolitan Water Board showing that the Governor was looking after the work all the time in all its aspects.

Everything that these gentlemen have done has been done in the open light of day, under contracts filed in the State House, in the office of the auditor, with payments under

vouchers filed with the treasurer; and yet no complaint to the Legislature, to the Governor, or to any State official has been made by anybody.

This work has been done under contracts necessarily, under contracts let to the lowest responsible bidder, properly, I say. The law required it, practically. The Legislature refused to abolish contract labor. Take the contract-labor bill of 1899, which you will find as Senate Document 337 of that year, which was designed to prevent contract labor on public works. It was discussed, it was debated, it was considered, and it could only get twenty-two votes in the House of Representatives.

I want to say a word about those contracts right here. The Board have made one hundred and eighty-two contracts. They took from the city of Boston contracts made by it to the number of eleven, making one hundred and ninety-three contracts. The total amount of these contracts was nearly *nine millions of dollars*. Of the one hundred and ninety-three contractors, only three have failed to complete their contracts, and those contracts amounted in the aggregate to \$128,000 only. On these contracts work was performed to the amount of over \$85,000, so that the net result has been, on all these contracts which the Board have let and have seen to the execution of, that work to the amount of only \$42,398.45 has been unperformed by the contractor, and that is about *one-half of one per cent. on the contracts*.

In other words, these gentlemen have managed this matter of the contracts with such ability that only one-half of one per cent. of the amount of all these contracts has failed to be performed by the contractors; and the labor on the contracts which was not paid by the contractors has been paid out of the reserve fund, so that every laborer has been paid for his labor. Would you condemn that or commend it, as business management? Do you think, Mr. Chairman, that you would make it any better for the Commonwealth if you restrict these contracts upon public works in Massachusetts to Massa-

chusetts contractors, like Mr. Carter and Mr. Meehan, the Boston City Hall contractors? And yet that is one of the remedies that my learned friend wishes you to apply, at the expense of the tax-payer.

And during all the time there have been no complaints by the towns. There has never been any action by any city or town in reference to any claimed violation of its duty or any alleged misconduct by the Water Board from the beginning of its work down to the present time. It was stated to you by the representative from Clinton when this hearing opened that the towns which desired to be represented were unprepared, and when Mr. Stone, the house chairman of this committee, asked him to state the towns, he said he understood that Clinton and Sterling desired to be represented by counsel.

That was on February 27. Since then, and during the progress of this hearing, the towns of Sterling and Clinton have had town meetings, Sterling on the nineteenth of March and Clinton on the fifth of March, and the towns of Boylston and West Boylston have also had meetings. Opportunity has been given, opportunity existed when the warrants were made, to give notice and have action by these towns. They did nothing. On the contrary, Mr. Chairman, not only have the towns not been represented by counsel or by any officials against the Water Board, *but a majority of these selectmen of each town have been before you in person or by written communications, and expressed their entire satisfaction with the conduct of the Water Board.* Of course the saving reservation is always put in by the citizens of Clinton that they want a little more consequential damages out of the Metropolitan District. I should probably take that view if I lived there. As I live here I don't think they ought to have any more.

Now, another thing: there have been no complaints of the conduct of the Water Board to the officials of these towns. I do not know about Southboro', when Brother Choate was



chairman of the selectmen, but if there were any complaints to him I have no doubt he acted upon them and had them remedied; but I am talking now about the Wachusett Valley. The fact has been stated over and over again by the selectmen of Clinton themselves, by witness after witness who have come here, some of them, to tell you of the misconduct of the Board as they conceived it, — the fact has been stated over and over again by all these people *that no complaint has ever been made to the selectmen of these towns* of any of the matters and things which are now complained of.

Why not? Because the good sense of the communities where this work has been done, of the average sensible people of these towns, has been with the Board. They have recognized the difficulties that surrounded the work. They have felt that the Board was doing the best that could be done under the circumstances, and they have had no real ground upon which to base any complaint. If they had they would have made it.

Now my brother will say, "Suppose these people up in that district were long-suffering, patient, forbearing people who wouldn't complain although they ought to." Well, you have seen some of them, you can judge. He will say, "Suppose they didn't complain, but suppose these things existed; of what consequence is it whether there were complaints or what the public sentiment was?"

In the first place, I think the strongest proof of a lack of a cause for complaint is the fact *that intelligent communities do not complain*. It is very difficult for you, reconstructing the history of this from witnesses who have become biased and prejudiced, probably, on both sides, to get at the fact as to whether there has really been anything wrong there. It was not difficult *for the people of these towns to know while the work went along*. If the misconduct of the Water Board, extending over four years, existed as claimed, the people of those towns knew it, and they knew it better than you can find it out now, *and some of them would have complained*.



It is said that public sentiment is against the Board. I do not want any mistake about that. It has been said that I brought that in. No, the question of public sentiment was brought in by questions put to Mr. Lynn W. Wilson, the newspaper man. You will find it at p. 279 of the testimony. Mr. Choate asked him :

*Q.* (By Mr. CHOATE.) When you were speaking last fall, were you able to ascertain at all what the feeling was through that section in reference to this conduct of the Water Board?

*A.* It was a feeling of very bitter antipathy to the way in which the laborers were treated.

*Q.* How extensive was that feeling?

*A.* Well, very extensive, almost universal.

*Q.* (By the CHAIRMAN.) Toward whom was that antipathy directed?

*A.* It seemed to be directed toward the Water Board.

*Q.* Not towards the contractor?

*A.* No, sir.

Evidence, p. 279.

Again, when Dr. Worcester was called by Mr. Choate, he asked him :

*Q.* Was there any general sentiment, so far as you know, about that sort of thing?

*A.* The general sentiment in Clinton has been that it was no use to go to the Water Board for anything ; but I don't think it is entirely just.

*Q.* (By Mr. BENTON.) You think it has been carried to the point of injustice?

*A.* I think it has.

*Q.* (By Mr. STONE, of the Committee.) Where is this sentiment general? In the town of Clinton, do you mean?

*A.* Yes, sir.

Evidence, p. 356.

This matter being thus brought into the hearing by the prosecution, and sufficient evidence offered so that, uncontradicted or unexplained, it could fairly be argued that the conduct of the Water Board had been such as to provoke general condemnation in Clinton, it seemed to me proper to ascertain what the facts were. I therefore requested Mr. Bancroft, a member of the bar, formerly a representative from Clinton when the Metropolitan Act was passed, and well acquainted in that town, to ascertain by personal inquiry for me what the public sentiment was in Clinton on this subject. It has been said that a Mr. Drew, in the employ of the Board, sought people in Clinton for that purpose. If he did, I am authorized by each member of the Board to say that it was without their knowledge or procurement, as it certainly was without mine. I did ask Mr. Bancroft to make this inquiry for me; the result was that a large number of citizens were brought before you to testify on this point.

In all, I think, thirty-four of the most prominent citizens of Clinton were summoned and testified, including the three most prominent Protestant clergymen and the parish priest of the Catholic Church; the three leading physicians, one of them the Medical Examiner for the district; the judge of the District Court; the former representative of the town, Mr. Wallace; the Chairman of the Selectmen and President of the Clinton Worsted Company; the Manager of the Clinton Wire Cloth Company; the proprietor of the Clinton House; members of the Board of Health, and other gentlemen, all taxpayers engaged in many different kinds of business, all reliable, excellent, and substantial citizens of Clinton. As their testimony is scattered through the extensive record, and as some of the Committee were unable to be present and hear it, I have made an abstract, with references to the pages in the evidence, so that you can compare and see whether the abstract is correct.

I then desired the Committee to know whether the mem-

bers of the Business Men's Association, who, as the member from Clinton told the House, requested the order for investigation to be introduced, and many of whom signed a petition in favor of it, had any facts which they could give to the Committee in support of the order. I was unable to obtain a correct list of all the members comprising, as has been stated, about 40 or 45 in all, but I took the list of officers elected this year, and caused them to be summoned, and these persons thus summoned, together with Patrick H. Morrison, a liquor dealer, and John A. Grady, auctioneer, and several others who are not members of the Business Men's Association, comprising about twenty-eight citizens of Clinton, appeared before you. Almost without exception, you will remember, they said to you that they had no facts within their knowledge in support of the prosecution of the Water Board. They were substantially all of them, however, for various reasons which it seems to me were obvious when they testified, more or less hostile to the Board. But man after man, in answer to the question whether they had any facts in support of the petition and order said; "*No, I have no facts. I know nothing.*" They gave you rumors, hearsay opinions, everything but *facts*. So far as what they said is of any value I have no doubt it will be stated and referred to by the counsel who makes the closing argument for the prosecution. The net result is that many more citizens of Clinton have come here and told you that the conduct of the Water Board has been satisfactory than have come to tell you that it has been unsatisfactory. The sentiment is undoubtedly divided now, because since the investigation started people have taken sides.

You have seen these gentlemen, and have not only counted them but weighed them. It is not for me to make comparisons between them. It is not for me to ask upon whom you can most rely — Judge Smith, or Mr. Tate,<sup>a</sup> Mr. Swinscoe, the Manager of the Wire Cloth Company, or his employee, the young man Fairbanks, Mr. Warren Goodale, or Mr.

Rodger, the Chairman of the Selectmen. It is not for me to compare the parish priest, Father McCaughan, with the swift witness, Mr. Grady, or Mr. John B. O'Toole, or Mr. Patrick F. Cannon, who has an office with Mr. Walsh.

Tested by the stake which these gentlemen have in the taxable property in Clinton, however, I find that the gentlemen who have testified to you that the conduct of the Water Board has been satisfactory represent a tax payment in the town of Clinton of *more than four times that paid by the citizens who have represented to you that the conduct of the Water Board was unjust*. If, therefore, it were a question whether the conduct of the Water Board has been such as to meet the approval of the citizens in Clinton itself, you would be obliged to find that in point of numbers, in point of standing and character, and in point of property and tax payment, those who think it has been satisfactory very much outweigh those who think it has not.

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#### CITIZENS OF CLINTON WHO HAVE TESTIFIED THAT THE ADMINISTRATION OF THE WATER BOARD HAS BEEN SATISFACTORY.

JONATHAN SMITH. Have lived in Clinton twenty years, been Chairman of the Board of Health, Town Solicitor, and member of the Legislature; have been Special Justice of the Police Court for about eighteen years, and am well acquainted in Clinton. I have taken some pains to find out what the public sentiment is there, among the leading citizens, and I have been unable to find any dissatisfaction, — any expressions of dissatisfaction.

Q. Have you heard any general complaint from the citizens about the non-enforcement of the liquor laws anywhere in that region?

A. None at all.

Q. Or of the weekly payment law?

A. None at all.

Evidence, pp. 709, 710.



CHARLES A. BARTLETT, Deputy Sheriff for eight years. Lived in Clinton twenty-eight years, and been deputy eight years. I have heard no sentiment against the Water Board by leading representative men of the town. There have been complaints by the Business Men's Association that the money of the employees was not spent in the Town among the traders, but was spent at the works.

*Q.* Any complaints of the violation of the liquor law?

*A.* No, sir. Has heard the weekly payment matter mentioned, but not in criticism; has heard some criticism as to the citizens preference matter; has been around the works a great deal, and has found no indisposition on the part of the Water Board or its engineers as to having the law enforced. There has been no complaint by the officials of the town that they have not been enforced.

Evidence, pp. 713, 714.

S. IVES WALLACE. Lived in Clinton fifteen years; am in the grain business, and was a member of the Legislature last year. I never heard anything against the doings of the Metropolitan Board. I have seen some of the testimony given before this Committee, and that is more than I knew there was. I think you have had most of the disgruntled people here, so far as I am able to judge. Am a member of the Business Men's Association. It has never appeared to me as being a strong institution or one that would do much good. Have no complaint as a citizen to make in respect to the way and manner in which the Water Board business has been carried on through the Wachusett Valley, and do not think that any large number, any considerable number, of the substantial citizens of the town have any such complaint.

Evidence, pp. 719, 722.

I know of a good many citizens that have been employed on the works, and I don't know of a single man that has applied for work that did not get it.

Does not believe that sufficient citizen labor could be obtained to do the work. Citizens of Clinton have been on the work and given it up.

Evidence, pp. 727, 728.

HENRY W. WELCH, carpenter and builder. Lived in Clinton thirty-eight years, and am well acquainted with all kinds of people in Clinton. As far as I know, the doings of the Metropolitan Water Board, in Clinton, have been satisfactory except in one or two instances which we have, and that will be adjusted satisfactorily very soon. [Refers to the claim for consequential damages.] Never heard any more criticism of this work than you would naturally hear of anybody say of town officers. Since the work began, the order in the town has been as good as in years past.

Evidence, pp. 735-737.

JONATHAN THISSELL. Lived in Clinton fifty-three years, a civil engineer and architect. Very well acquainted in the town. Asked whether there had been complaint of the way and manner in which the Water Board had conducted the business, said: "I think the general idea is that they have conducted it as good as it could have been conducted under the circumstances. It is so large a job, and the quality of the help also, I don't think it could have been improved." Mr. Thissell has been a selectman, an assessor, road commissioner, fire engineer, etc. Order of the town has been as good since the work began as before.

Evidence, pp. 740, 741.

EBEN S. FULLER. Lived in Clinton thirty years, is the largest real estate owner and tax-payer; has been in the lumber business; is well acquainted in Clinton; has been selectman; has not heard any general complaint about the manner in which the Board have carried on the work in that town; the order in the town has been good since the work

began, and thinks it is a good thing to have the men live on the works and not about the town.

Evidence, pp. 747, 750.

WILLIAM RODGER. Lived in Clinton for nine years, is a manufacturer, and Chairman of the Board of Selectmen last year and this ; has heard conversation as to the conduct of the work of the Board in Clinton both ways, but has no complaint to make as a citizen, and no complaint to make officially of the manner in which the work has been carried on, and there have been no complaints as to the matter before the Board of Selectmen.

Q. Now have you during the time you have been on the Board observed or known anything of which you have had cause to complain against this Board or its engineers?

A. I don't think I could honestly say that I had a complaint.

Q. What?

A. I don't think I could have any complaint.

Evidence, pp. 779, 780.

I didn't by signing the petition for investigation intend to express any complaint against the Board or any of its conduct as far as I knew it, either as Chairman of the Selectmen or a citizen of the town.

Evidence, p. 784.

Rev. ARCHIBALD S. BROWN, a Baptist clergyman. Have lived in Clinton for three years. As far as I am able to ascertain, they (the Water Board) are conducting their work properly. I do not know of any dissatisfaction as to the way in which the work is carried on. As to the treatment of the men, I should say that compared quite favorably with other large contracts ; have been on the work, in the shanties and seen the men.

Evidence, pp. 787, 788, 789.

Rev. ABNER M. OSGOOD, pastor of the Methodist Church. Has lived in Clinton three years, and his parishioners are scattered throughout the town. Has been down on the works and into the camps and seen the men. They appear to be comfortable and happy. I have not learned of any very general dissatisfaction in town against the operations of the Board. If it had existed I think I would have heard something about it.

Evidence, pp. 797-799.

Rev. WILLIAM W. JOURDAIN, D.D., pastor of the Congregational Church in Clinton for more than seven years, with a congregation scattered all over the town. I go about the town very much. If there were a general sentiment upon any public matter I should hope to know it. Have been upon the camps and seen the men. The conditions seems to me as favorable as might be expected in a work of that kind. I am sure that a sentiment hostile to the Water Board or their management generally in the community would come to my knowledge, but it has not. I do not think the good order and quiet and comfort of the town has been interfered with since the work began.

Evidence, pp. 799-801.

CHARLES L. STEVENS. Lived in Clinton thirty-six years. Am postmaster. The Metropolitan Board has its friends and its enemies. Think the investigation ought to have been had, but personally I have nothing to complain of, and have no facts to give the Committee in support of the petition. As to the feeling and sentiment among the knowing and thinking men with regard to the system of labor and method of treating it I have heard this expressed quite generally, that they did not see how they could do the work, or get the work done in any other way than it is being done.

Evidence, pp. 805, 811.



CHARLES W. FIELD. Have lived in Clinton thirty-two years, and am a member of the Business Men's Association. Signed the petition but have no facts to give in support of it. The general management of the Water Board so far as it relates to the Wachusetts reservoir has been satisfactory to me. I think the management of the works there through this Water Board and through the engineers has been perfectly satisfactory. It has so far as I know.

Evidence, pp. 821, 823.

CUTLER B. WALKER. Have lived in Clinton twenty-seven years. Am a grocer. Signed the petition, but have no facts to give in support of it. Agrees with the statements of Mr. C. W. Field.

Evidence, p. 825.

I have heard no comment upon the sale of liquor until the hearing came up. As to giving preference to citizens, I have heard it remarked that they couldn't get citizens to work. I have heard this for the last year.

Evidence, pp. 825, 826.

GEORGE E. MCARTHUR, a harness-maker with a shop in the centre of the town. Am well acquainted in the town. Signed the petition but didn't read it, and have no facts in support of it. I agree with the statements of Mr. Field as to the conduct of the work.

Evidence, pp. 828.

JOHN H. COUGHLIN, Proprietor of the Clinton House, the largest hotel in Clinton. Signed the petition for investigation but have no facts in support of it. I have not heard the matter discussed in the hotel. I have heard no complaint as to sale of liquor and settlement of damages or weekly payment, or citizens preference. Wasn't interested in the investigation. I heard Mr. Field's statement, and I agree

with him in what he said. I have no complaint to make of the way and manner in which the Board have done their business. I know of no general complaint against them.

*Q.* As far as you do know they have gone along as well as could be expected, haven't they?

*A.* Yes, sir.

Evidence, pp. 831, 833, 834.

*J. PHILBIN.* In the wood and coal business; one of the selectmen and have been for two years; signed the petition but know no fact to bring to the committee in support of it. A great many thought it would be a good thing, and that it would have a great tendency to bring about weekly payments. Haven't heard anything with regard to the sale of liquor. Have had some talk about the Philbin case. I don't think Philbin got enough; ought to have had \$5,000 more. I am a member of the Business Men's Association, which has about forty or forty-five members, but haven't attended a meeting for a year. The police are under the charge of the selectmen.

I do not know that the laws were violated.

*Q.* If you had known that they were violated in the town wouldn't you have taken means through the police and the power in your hands to have then enforced.

*A.* I think so.

*Q.* (By Mr. WALSH.) As to general sentiment that the labor laws and liquor laws were violated?

*A.* Well, I haven't heard but very little on the matter. I haven't heard anybody express themselves.

*Q.* (By Mr. WALSH.) What was your own attitude about the matter that there were violations?

*A.* Well I haven't seen any violations. I don't know of any.

Evidence, pp. 834, 837, 838.

*HORACE H. LOWE*, selectman for six years, term expiring last March; a contractor and builder. Lived in

Clinton about thirty years, signed a petition; thought it would be a benefit to the laboring man as much as anything but have no facts to bring support of the petition.

*Q.* (By Representative STONE.) Do you know what the general opinion has been there as to the general way in which the Board has carried on its work?

*A.* Well, I haven't heard any great complaints in regard to that. I guess they are satisfactory, if anything.

Evidence, pp. 840, 841, 843.

Could not name any citizen who had ever been refused work upon the same terms and conditions that other people were having.

*Q.* (By Representative BURLIN) as to whether he considered the Board had maintained order at the reservoir, said :

*A.* I think they did very well.

*Q.* You never heard any complaints at all?

*A.* No, sir.

*Q.* (By Representative PETTINGILL.) As selectman did you consider it your duty to see that the liquor laws were enforced there — selling beer — if complaint had come to you?

*A.* Yes, sir.

Evidence, p. 846.

Hon. JOHN W. CORCORAN. I have had a residence in Clinton a great many years, was special council for the town when the Metropolitan Act was passed, and have represented the town before the Legislature in support of the consequential damage bill. The Board have to take things as they find them and deal with them in that way. I have no complaint to make of their conduct. Taking the conditions as they have existed in the Commonwealth with which they had to deal, I don't know that anybody could have done any better. I know that I wouldn't have, if I could help it,

what you might call a foreign community dumped there every time a new contract was let. Now, that may not be the fault of these gentlemen. I am speaking now of a condition rather than an administration.

*Q.* Do you know any way to prevent it?

*A.* No, sir, I don't. That is not my business.

*Q.* Then you don't condemn them for it?

*A.* No, sir. I have no condemnation.

Evidence, pp. 847, 849.

GEORGE K. POWERS, contractor, resident of Lancaster, but with office in Clinton for thirty-two years. Am there every day seeing people, knowing what is going on.

*Q.* As to whether the sentiment of the community was against the conduct of the Water Board?

*A.* I should say it was not against it. As a real estate owner in Clinton I think the opinion as to land settlements has been that the Board got along very well. As for the Philbin property I don't think the settlement was successive. If I had owned it should have held it rather than sold it for less.

Evidence, pp. 860, 861.

HENRY A. BURDETTE, a druggist, former postmaster. Signed the petition. Asked for facts in support of it said: "I don't know anything about it one way or the other particularly."

*Q.* Have you as a citizen of the town any complaint to make to this Committee about the Water Board or its engineers?

*A.* No, sir, I haven't. I have no reason to.

*Q.* I mean as a citizen in the town, I don't mean personally about your business, but living there, and being a taxpayer, as a citizen, have you any complaint to make about the Water Board?

*A.* I have not.

Evidence, pp. 872, 874.



As to signing the petition I signed it as every man foolishly signs, then, as nine persons out of ten do, not thinking. Had I know then what I do now I would not have signed it, most decidedly.

Evidence, p. 878.

CHARLES N. SWINSCOE. Manager of Clinton Wire Cloth Company; lived in Clinton thirty-one years; in active business, and knows the people; member of the Business Men's Association, but never attends. In town every day meeting people. The only comments that I have heard against the Board have been that they were too parsimonious in making their settlements. That simply comes from people who naturally feel they ought to have more.

Q. Now, take the general conduct of the business of the Board up in your town, has it been generally satisfactory or generally unsatisfactory to you?

A. I should say satisfactory. That would be my observation.

Evidence, pp. 1021, 1022.

FRANK F. WALLACE. In hay and grain business. Member of the Business Men's Association. Lived in Clinton fourteen years. Signed the petition. Have no facts to give in support of it. I had no mind for any investigation. I had nothing I wanted to see investigated. I simply signed the petition to get rid of the man who presented it. Violations of law might have existed, but I didn't know that they existed. If there is any general sentiment among the substantial business men of Clinton that the Board has been doing wrong I don't know it.

Evidence, pp. 1025, 1031.

Dr. G. J. ORT. Have lived in Clinton twenty-eight years and practised there six, throughout the town, also in Boylston, West Boylston, Berlin, and through the Wachusett

Valley. Have been a member of the Clinton Board of Health. Asked as to the condition, said: "I don't know of anything wherein the people feel that the Water Board is dealing unfairly. I didn't until recently hear that many of them were dissatisfied, and I don't know now that a great many of them are dissatisfied, or feel so. The health of the men on the works has been good."

Evidence, pp. 675, 676, 677.

THOMAS MURPHY. In the livery business. Have lived in Clinton all my life. Was Chief of Police in 1896 and 1898. I have enforced the liquor laws and police regulations. The Board have never interfered therewith.

Q. Were the labor laws of the Commonwealth enforced and the good order of Clinton preserved in 1898?

A. They were.

Q. Whether any of these people, the citizens of Clinton, Business Men's Association men, made any complaint to you about that matter?

A. No, sir, they didn't.

Q. During the time you were in office?

A. No, sir, they didn't.

Q. Now, among the people that you meet and see and hear talk, is there a hostile sentiment against this Board, or a feeling expressed that they are not doing their duty?

A. Not to me, sir.

Q. Well, did you hear it?

A. I did not.

Q. As a citizen of the town what do you say about it? Are they or are they not fairly doing their duty up there the best way they can?

A. I think they are for the amount of people they hire there.

Evidence, pp. 686, 687, 688, 689.

Dr. WILLIAM P. BOWERS. Was born in Clinton, and have lived there nearly all my life, have been a practising physician

eighteen years in Clinton and through the Wachusett Valley ; been a member of the Board of Health and of the Board of Selectmen. Was selectman three years. In all I have been on the Board of Selectmen six years, and have been chairman of the board three years. Have been on the Board of Health six years, and am Secretary of the Board now.

*Q.* Driving about among the people, the leading citizens of Clinton and of that locality, what have you found the sentiment to be with reference to whether this Metropolitan Water Board is fairly trying to do its duty up there?

*A.* I have heard very little discussion about it any way, and what little I have heard has not been adverse. I know the Business Men's Association. Many of them are patients of mine, and none of them ever made any complaint to me that the Water Board were not doing their duty in their conduct of this work in Clinton.

Evidence, pp. 691, 692, 693. .

As to the condition of the works and the men he said that Dr. Goodwin, the inspector of the Board, is a physician of good standing and capacity, and has done his duty. The Board of Health understood they could have acted over the matter at any time, but they have seen no occasion to do so, and no one has called their attention to anything in respect to the matter.

Evidence, p. 694.

Dr. GEORGE L. TOBEY. Lives in Clinton, and has been a practising physician there four years, and is the State Medical Examiner for the district, which includes Clinton, Berlin, Sterling, Lancaster, Harvard, and Bolton. Practises generally throughout the Wachusett Valley. Before he lived in Clinton he lived sixteen years in Lancaster, three miles from Clinton. As a practising physician, comes in contact with the business men and people in Clinton daily.

Questioned as to any general complaint about the conduct

of the Metropolitan Water Board in carrying on this work, had heard none.

*Q.* What do you say as to the fact, if there had been a general complaint, would you have heard it?

*A.* I never heard any. I am over to the works almost every day, more or less, and have been into the shanties.

*Q.* What do you say as to whether the Water Board have acted improperly, or have failed to perform their duty in respect to this work, or have done anything that you as a citizen complain of and say was wrong?

*A.* I don't think I have anything to complain of.

*Q.* As a citizen and man interested in the health and good order of the community in which you live, if you have any complaint I wish you would state it.

*A.* I don't think of any one now.

Evidence, pp. 699, 700, 701.

CHARLES FRAZER. Have lived in Clinton forty-eight years, am in the coal and ice business, and know the people of Clinton well. Am a member of the Business Men's Association. Attended a meeting a year ago. So far as I know in regard to the business that has been done by the Water Board, and so far as I have talked with the business men of the town, I do not know that I can say there has been any fault found. So far as I am concerned, they took some of my property and I have not been able to settle with them yet. So far as I have talked with the business men of the town, that I consider business men, the substantial men of the town, I don't know that I have ever heard any complaint.

Evidence, pp. 705, 708.

Rev. W. C. McCAUGHAN, parish priest in Clinton, says :

"My attention has been called to the fact that it is claimed by some of the people in Clinton that there is a general sentiment of hostility to the Metropolitan Water Board and its operations in the construction of the water works in this and



adjoining towns. If there is such general sentiment in the community, it has not come to my attention. Have been a citizen of this place for the past six years. I meet the people in the town a great deal, including not only those who are members of the parish of which I am assistant pastor, but also many of the other people residing in the town, and if such sentiment prevails I should undoubtedly have learned of it. As far as my knowledge or observation goes the Water Board have conducted the business under their charge in a proper manner, and very little trouble has been caused by the workmen employed."

Evidence, p. 1186.

So much for public sentiment, except as it has been aided by the industrious conduct of those people who got up some public meetings. Mr. Walsh took exception when I said he went off and got up a public meeting in Clinton. He said it was not true. Well, of course if he says it was not true, it was not, and I was misled by that newspaper in Clinton called the "Item," which said that the call for the meeting was prepared in Mr. Walsh's office. But I did notice that the call for the meeting was signed by Mr. Patrick H. Morrison and by Mr. McClinchy, and Mr. Kennan, and Mr. Lynn Wilson, and Mr. Cannon, of Mr. Walsh's office, and other people who had been here and told their story to you in the open light of an investigation, and that the circulars which they issued denounced witnesses who had been here, that they had a band of music, and that they got a hall full of people in Clinton, and that they passed some resolutions condemning this Board and calling for their removal.

Then you have been aided by another public meeting held in Southboro', where, as they didn't have a band of music they had a yellow circular, instead of a pink one, and advertised a free lunch after the speeches.

Gentlemen, neither of those meetings give the slightest indication of what the thinking people of those communities

think about this matter. You might just as well charge everybody who went to hear Mr. Bryan speak, when he spoke in New England, with being a Bryan man. They ought to have no weight, and they will have no weight, with this intelligent Committee.

It is said, however, that there are certain specific things that the Board have done and certain specific things they have neglected to do. The first is the violation of the liquor law. I am very glad, in approaching a discussion of these various questions of violation of law, to be able to address a committee with so many lawyers upon it. I have great regard for the sound sense of laymen. Sometimes I think they get nearer the law than lawyers do; but still, in the construction of statutes the technical knowledge of the lawyer is of great value.

#### ENFORCEMENT OF LIQUOR LAW.

The liquor law is a State law which exists because the Yankees, our people, the English speaking people, cannot control their appetites without the aid of legislation to help them. The prohibitory liquor laws of New England are a standing monument to the incapacity of our own people to restrain their appetites within legitimate bounds. If we were as sensible in drinking as the Italians we never should have had any prohibitory liquor laws. We never should have needed them, because the testimony is universal that you do not see any drunken Italians. But the liquor law is a State law, a police regulation; and the legislature, when they appointed this Board, instead of saying, as my Brother Choate wants you now to say by law, that it shall be plainly obligatory upon the Board to see to the enforcement of the laws, put a specific provision in the act requiring the commissioners to *give to the towns* additional police protection at the expense of the Metropolitan District.

What did that mean? Why, it meant that *the local authorities, the selectmen of these towns, were to continue*

*to police those towns.* It did not mean that the commissioners were to be thrust in as another power to interfere with the local government of those towns. And I want to suggest to you as a matter of law that the Commissioners had no more right to direct a raid, or institute a prosecution for the violation of the liquor law in the town of Clinton, than I had or you or any other citizen. Of course any citizen can go and make complaint, but there was no more *obligation* on the part of these commissioners to prosecute violations of the liquor law in Clinton than there was on anybody else. There was an obligation on their part to give that town and the other towns police protection, to the end that they might enforce the law, and they did it.

In respect to this branch of the investigation which you are directed to make, the field was narrowed at the first hearing, when Mr. Walsh said: "I wish to say that there is no contention here, but that the liquor laws were enforced in the town of Clinton," but said they were not enforced in Sterling, West Boylston, and Boylston. The Chairman of the Committee then directed that the testimony be confined "to matters outside of the town of Clinton, so far as the liquor law is concerned."

Evidence, pp. 81, 82.

The inquiry being thus confined to the three towns of Boylston, West Boylston and Sterling, the following communications were introduced from the Selectmen of those towns:

"We, the undersigned, selectmen of the town of Boylston, respectfully state that in our opinion the general order of the town since the first day of July, 1899, during the time officers furnished by the Metropolitan Water Board have been on duty has been as good as could be expected, considering the large number of men employed upon the works of the Wachusett reservoir, and, in our opinion the general good

order of the town thus far has been better than we anticipated it would be. There have been very few complaints, and we think the officers have been faithful in the discharge of their duties.

"GEORGE L. WRIGHT,  
"MONTRAVILLE FLAGG,  
"NATHANIEL L. KENDALL,  
" *Selectmen of Boylston.*"

BOYLSTON, Feb. 23, 1900.

"OFFICE OF SELECTMEN,  
"WEST BOYLSTON, MASS., Feb. 21, 1900.

"We, the selectmen of the town of West Boylston, for the year 1899, hereby declare that the Metropolitan Water Board have up to the above date maintained and controlled the police department in the town since the work began here; that the good government of the town has been maintained; that there has been no more crime committed here than heretofore; and in fact, that there has not been as much trouble as we would and did expect under the existing condition of things; and also say that we have never made any complaint in regard to the way that they have attended to the above matter.

"A. J. SCARLETT,  
"J. C. HASTINGS,  
"AARON GOODALE,  
" *Selectmen of West Boylston.*"

"STERLING, MASS., Feb. 26, 1900.

"*To whom it may concern:*

"This is to certify that so far as we know, the good order of the town has been preserved since labor on the Metropolitan Water basin began; and that we think there has been as good order maintained in our town as we could reasonably expect, considering the number of foreigners working on the



Metropolitan water-works within our limits, and as far as we know, the officers have performed their duties faithfully.

"JONATHAN DAVIS,  
" *Chairman of Selectmen.*

"J. SAMUEL BURPEE,  
" *Clerk of Selectmen.*"

Evidence, pp. 88, 89, 90.

You thus have a written statement of all the selectmen of all these towns except one of the selectman in Sterling, Mr. Bates, who is a member of the Legislature. He has been before you and it appears that after the statement by the other two selectmen in Sterling had been read to the Committee he met his colleagues on the Board and discussed the question whether the law had been enforced in Sterling as they said it had, and that they did not even under the pressure of his influence and discussion desire to retract anything in the statement.

Evidence, p. 524.

You also have from Mr. Bates, who has been before you, the statement that the Board of which he was a member never passed any votes or addressed any communication to the Water Board on the subject of the enforcement of the liquor laws in Sterling. Mr. Bates said :

*Q.* Did you as chairman, or as one of the Board authorized to act for them, address any communication to the Metropolitan Board on that subject at any time?

*A.* Not to the Board.

Evidence, p. 518.

*Q.* (By Representative STONE.) Did you as a Board or individually make complaint to the Water Board about that?

*A.* No sir, not to the Water Board.

*Q.* Or to any of its representatives?

*A.* I did to Mr. Baldwin, the Chief of Police.

Q. Is that on the occasion when he was going by that you spoke of?

A. Yes, sir.

Q. Did you at any other time?

A. No, sir.

Q. Was there ever any understanding so far as you know with the Board, and on the part of those who were violating the law, that they should be protected or left alone?

A. Not in the least that I know of. We expect where there is such a large body of men, and that class of men, there would be more or less drinking; of course we expected that.

Q. Speaking as a representative, Mr. Bates, what in your judgment did not the Board do up there with reference to this matter that they ought to have done?

A. Well, I think they ought to have stopped the sale of liquor, as it was reported to me that they did sell it.

Q. In what way?

A. Well, by arrests. I suppose there was no other way.

Q. By raids?

A. By raids.

Q. In any other way?

A. Well, I don't know how they could in any other way. That is the only way that they could get at them.

Q. Is there any reason why you didn't follow up that suggestion to the Chief of Police up there?

A. Is there any reason?

Q. Was there any reason?

A. Nothing other than the general neglect of all town officers to do their duty and the tendency to turn it off on to somebody else.

Evidence, p. 518, 521, 522.

Now do you suppose, Mr. Chairman and gentlemen of this committee, that if Mr. Walsh had made the statement to the House in his speech in support of this order that he made to you, and if he had read to the House these written com-

munications from the selectmen of the other towns, which you have had, anybody in that House would have voted for any investigation with regard to the violation of the liquor law in these towns?

But notwithstanding all that, there has been a very large amount of talk here about liquor selling — beer selling — in the town of Clinton as well as in the towns of Boylston, West Boylston, and Sterling.

The population of Clinton was about 12,000 (11,497) in 1895. It licensed saloons in the village alone at the rate of about one for every one thousand of its entire population, including men, women, and children, and in 1896, when for once it voted no-license, the whole number of arrests was 261, of which 177 were for drunkenness.

In 1897, when it had license, the whole number of arrests was 349, with 227 for drunkenness.

The average maximum number of persons employed upon the Metropolitan Water Works, either by the Board or under contract by contractors, for the years 1897, 8, and 9 has been only 521.

The average number of course has been very much less than this, so that the population has been increased less than 500 by the persons employed on the water work, and yet the town has called for and received nine policemen, paid by the Commonwealth, or an average of one to every thirteen hundred persons of the entire population, and an average of *more than one to every sixty persons of the added population brought into town by the Metropolitan work.*

On the whole there has been a permanent police force in Clinton while this work has been going on of fifteen policemen, or more than *one for every thousand of the population.* These policemen have been under the control of a chief of police under the direction of the selectmen.

The chiefs of police have testified that they knew that they had the power to go upon any land or into any buildings whether under the control of the contractors on the

works or elsewhere, and enforce the law, and Mr. Bates, the present Chief, testifies that he has "enforced" the liquor law with regard to commissaries without fear, favor, or hope of reward, so that now there is nothing illegal done there that he knows of; also that nobody has ever tried to prevent him from doing his duty.

Record, p. 416.

And he says that the arrests made have not been of Italians to any appreciable extent. He says: "I think the number is limited to perhaps a dozen in the year."

Record, p. 418.

It has also been claimed to you that Clinton has suffered from idle people who ought to have been given work by the contractors. The town reports show the contrary.

If Clinton had suffered from any large addition of idle and poor people to its population since the Metropolitan Board began its work you would expect to find an additional expense for the care of the poor, but the town reports show that the appropriation for the pauper department, including the almshouse and outside support in the year ending Feb. 1, 1896, was \$9,000. In the year ending Feb. 1, 1897, it was \$9,000. In the year ending Feb. 1, 1898, it was \$10,000, on account largely of the establishment of a new department of pauper relief called "Orphanage," at an expense of \$610.32. In the year ending Feb. 1, 1899, the appropriation was \$10,000, and in the year ending Feb. 1, 1900, it was \$10,000.

It is said that the town has been afflicted by a large number of tramps since the Metropolitan work began, but for the year ending Feb. 1, 1898 the total cost for tramps as shown by the town reports was \$54.80; for the next year it was \$54.75; and for the year ending Feb. 1, 1900, it was \$26.

The Chief of Police in his report for the year ending Feb. 1, 1898, says that "2,350 tramps put up at the station during



the first nine months of the fiscal year — a nuisance, an evil paramount. These wanderers ate, during these nine months, just twelve barrels of crackers, and labored not; but now they are housed and fed at the town farm, where they are compelled to earn their bread." The following will tell of the success of the change:

Tramps at the police station	January, 1896	.	398
“ “ “ “ “ “	1897	.	256
“ “ “ town farm	“ 1898	.	108

The town reports of Clinton also show that the liquor law has been enforced and that the Board have given ample police protection in that town.

In 1896 no contract labor was employed on the water works, in Clinton, and only an average of thirty-three day laborers were employed.

Record, p. 28 $\frac{1}{2}$ .

In the year preceding, that is in the year ending Feb. 1, 1896, the total number of arrests was 349, of which 227 were for drunkenness.

Of the number arrested 213 were residents and 136 non-residents.

In 1897 the first contract labor was employed on the water work, the maximum number at any one time being 149 and the average only 18 for the year.

The total number of arrests was only 261, of which 177 were for drunkenness.

Of the number arrested 95 were residents and 166 non-residents.

In 1898 the maximum number of contract laborers in Clinton was 373 and the average only 149.

The total number of arrests was 634, of which 491 were for drunkenness.

Two hundred and nine of the persons arrested were residents of Clinton and 425 non-residents.

In 1899 the maximum number of contract laborers was 577, the average 295.

The total number of arrests was 478, or 156 less than in the preceding year. Of these arrests 368 were for drunkenness.

Of the persons arrested 132 were residents of Clinton and 346 were non-residents.

For the year ending Feb. 1, 1900, the total number of arrests was 855, of which 570 were non-residents of Clinton and 285 were residents. How many were for drunkenness does not appear, but presumably the same proportion as in previous years.

Mr. Bates, the present Chief of Police, testifies that of the persons arrested, the *Italians were the least in number*.

Mr. Bates also testifies that those arrested for drunkenness probably *got their liquor at the licensed places in Clinton*, where license has prevailed since 1896, there being eleven licensed places in the village.

Record, p. 423.

When you come to the liquor law matter, I ask you to take the testimony of the selectmen of the three towns, Sterling, Boylston, and West Boylston, and the testimony of the chiefs of police in Clinton, and add to it the frank confession of Mr. Walsh, and to find that in these towns the liquor law has been enforced *just as well as the people in the towns wanted it enforced*, and that is as well as any law is enforced.

A law of the Commonwealth prevents a barber from shaving a man on Sunday. But many a man who gets shaved in Boston, first goes to church and then goes around to the barber and gets shaved, in plain violation of the law; and this is just about as important a violation of the law as the sale of a little beer to Italians to be drunk on the works in preference to having them go up and buy of the saloon keepers on the streets in the town of Clinton.

There is another important fact about this liquor-selling business, and that is that *there was never any complaint about it*. I have taken the pains to make an abstract of the records of the Clinton Business Men's Association, Brother Choate's clients, which are before you. I shall submit it to you. They were in existence and active to the extent of their ability during all this time. They put their fingers into everything. They resolved against the monopoly of the American Express Company, they resolved against the exactions of the Boston & Maine Railroad, they resolved about gas, and Mr. Tate had resolutions and talk on gas, and there was talk about a fountain, a clock, and about a black listing bill, they had banquets and they had monthly meetings, and they discussed everything under the heavens, and you cannot find in their records the slightest indication that they ever said a word or had a word to say about the liquor law or about the sale of liquor in Clinton to the Italians. And yet everybody knew the Italians had beer on the works, and the Board either knew it or ought to have known it, and nobody cared about it, and nobody ought to care about it. That is where the beer ought to be sold, if it is sold at all.

Gentlemen, I want to ask you this question when you come to consider what the Board ought to have done about selling liquor. Suppose you had been the Board, and you had known that these Italians had beer with their food on the works, known just what every intelligent man who knows anything about public works in Massachusetts knows, that where Italians exist and do the work they have beer and live on the works. Suppose you had known that, and no one from Clinton had complained, no one from any town had complained, no one from anywhere had complained to you about it, and you had known that the policemen furnished by you were adequate to enforce the law in those localities as well as people wanted it enforced, would you have taken any action to break those contracts? Would you have

stepped in and attempted to direct raids upon these contractors and commissaries yourselves, or would you have let it alone? It is a practical question. In the absence of any complaint on this subject, with a statement by the chiefs of police that the law was enforced, with a statement by the selectmen of the towns that the law was enforced as well as they wanted it enforced, what would you have done? Would you have stepped in and undertaken to say to these contractors, "Gentlemen, you are violating the law, you are violating your contract, and we will terminate the contract," leaving it to the contractor to say, "I was not doing anything of the kind," and make his claim on the Commonwealth and compel you to prove a violation of the law, at the risk of the Commonwealth? Not at all. You would have done just what this Board did. You would have let it alone just as the people wanted it let alone.

#### WEEKLY PAYMENT LAW.

But it is said that the weekly payment law has been violated. Gentlemen, if the weekly payment law of 1899 applies to the Boards of the Commonwealth, it has been violated not only by the Metropolitan Water Board, but by the Sewage Commission, by the State Highway Commission, and by all other commissioners or boards that I know anything about. The answer to the proposition which Mr. Choate advances to you, that this law applies to the Board, is that it don't apply. Whether you have succeeded in getting the opinion of the Attorney-General on that important legal question, I don't know. We could not. We request you to ask for it and be guided by it.

But this law does apply to the contractors, and for about eight months prior to this investigation they violated it, *provided* the law means that *a man must be paid whether he asks for it or not*. I do not think it does. The evidence is very clear that the contractors, with the exception of Gennaro, who is dead and gone long ago, dead financially, and dead



physically more than a year ago before this law was passed, have paid their men monthly but have paid them oftener *when they asked for it*. They have had monthly pay days, and have paid to the men on account whenever they have asked for it. I think you will find that it would be impossible out of this evidence to find a case where it could be proved, or where it could be fairly said, that any contractor *had refused to pay his men as often as once a week if asked*. I believe that to make a violation of the weekly-payment law there must be a request to pay and *refusal to pay*. I do not believe that that law *requires a man to be paid whether he wants it or not*. We have not gone quite so far as that in interference with the personal liberty of people in Massachusetts, though we may get there some time, so that a man will have to take his pay once a week whether he wants it or not. But I don't think we have got there yet. And, unless we have, these contractors have not violated the law.

But, gentlemen, if the contractors have violated this law there is a penalty for it. They can be prosecuted for it. If the selectmen of these towns, if any citizens of these towns, if any citizen of the Commonwealth thought there was a violation of the weekly-payment law, he had only to cause these men to be prosecuted. There is a fine, and a very heavy fine; and, speaking from memory about the law, I think that the State police are specifically charged with the duty of enforcing this weekly payment law. Nobody has ever done it because *nobody has ever regarded it as being violated*. And here, again, you want to observe that if these contractors on the Metropolitan Works have violated the weekly-payment law, so most other contractors on other public works in the Commonwealth have violated it.

#### THE NINE-HOUR LAW.

Now take the nine-hour law. There is no claim that the Board have violated that law. They only have their people whom they employ directly work nine hours. They work

by the day or by the month and a day's work is nine hours. But the contractors on this work, and on all other public works, municipal, State, and county, so far as this investigation shows, have their men work ten hours. They hire them by the hour, they pay them by the hour. If a man works two hours he is paid for two hours. If he works ten hours he is paid for ten hours, and if he works twelve or fifteen hours in an emergency he is paid for twelve or fifteen hours. They disregard a day's work entirely. Is that a violation of the law?

Here again I must say that I do not think so, and I never shall think so until the tribunal which makes no mistakes says that that is a violation of the law. The law does say no man shall be "*required*" to work more than nine hours, and it says that nine hours shall be a day's work. I agree that if a farmer hires a man, if he is hired by the month or he is hired by the day, then he can only be required to work nine hours a day. Nine hours is a day's work. You hire a man to work twenty-five days and that means he works twenty-five days of nine hours each. But when you hire a man to work by the hour then the employment by the day disappears.

But if I am wrong about that there is a penalty for the violation. The law provides for a prosecution. Why haven't these wicked contractors been prosecuted? Why are not the contractors on other works prosecuted for it? Because the common sense view of it has been and is that on public works and on other works where men are hired by the hour, the nine-hour a day law does not apply. Will you condemn this Board because they have not acted differently from all other persons and boards and terminated contracts upon the ground that men could only be hired by the day of nine hours, or if hired by the hour they could only be permitted to work nine hours?

## CITIZENS' PREFERENCE LAW.

Now I come to a branch of this case about which perhaps, more has been said than any other, and which perhaps is of more general interest to the public than any other, and that is the Citizens Preference Law. It is said that the Citizens Preference Law has been persistently violated, not by the Board directly but by the contractors. The Metropolitan Water Act provided that "in the construction of these works preference in employment should be given to the citizens of the Commonwealth." That was in 1895. In 1896, the Legislature enacted a general law, of which Sections 1 and 2 were these:

"Hereafter in the employment of mechanics and laborers in the construction of public works by the Commonwealth, or by any municipal corporation therein, or by persons contracting with the Commonwealth or with such corporation, preference in said employment shall be given to citizens of the United States; and every contract hereafter made by the Commonwealth or by any municipal corporation therein shall require the giving of such preference in said employment.

"Any contractor who knowingly and wilfully violates the provisions of this Act shall be fined not more than \$100 for each offence."

Now, it is a matter to be considered as to whether the general law of 1896, requiring preference in the employment of labor on public works to be given to citizens of the United States, does not supersede the special provision in the Water Act of 1895, requiring preference to be given to citizens of the Commonwealth. The law is general. In 1895 they required preference on these works to be given to citizens of the Commonwealth. In 1896 they said "Hereafter in the employment of laborers in the construction of public works by the Commonwealth, preference in employment shall be given to citizens of the United States." And



then they went farther and said that every contract hereafter made by the Commonwealth shall require the giving of such preference, that is, preference to citizens of the United States.

I do not express an opinion about that, because I have not one definitely ; but I think it may fairly be claimed that the Legislature when they enacted the general law and provided that that general provision should be put into these contracts, meant to exclude the minor preference, the lesser preference, to citizens of the Commonwealth. It is said that this law has been violated. The Water Board, for further assurance, put a provision in each of its contracts requiring both of these preferences, and it is claimed that the contractors have violated both of them.

Gentlemen, where in this evidence can my friend point to the name of any man, any citizen of the United States or of the Commonwealth, who has been refused work upon the same terms and conditions as aliens? I cannot find it. Why, if the citizen of the Commonwealth or the United States was willing to work for a contractor upon the same terms and conditions, and was an equally good man, why should the contractors refuse to give him employment? Stop and look at this matter as a matter of probability. Here are contractors who knew of this law, who have this provision in their contracts, and you are asked to say that they have deliberately preferred an alien, an Italian or another alien, *at the same price*, capable of *doing the same work* for them as a citizen, to a citizen. Why should contractors do that? They have not done it. No, the difficulty is this. The average man understands that the preference law means that *wages shall be paid at which citizens will work*. Witnesses have told you so. Why my genial friend, Mr. Meehan, the City Hall contractor, says that the preference law means that only Massachusetts contractors shall be employed.

What does that preference law mean? For what purpose was it intended? Was it intended *to raise the stand-*



*ard of wages?* Did the Legislature mean, when they put that provision in the Metropolitan Water Act, that these works should be required to cost a million or two millions of dollars more than they could be constructed for with alien labor? Of course not. When the Legislature enacted in 1896 that preference should be given to citizens of the United States on public works and on municipal works, did they mean that all those works were thereafter to be constructed *upon the basis of wages sufficiently high to get citizens?* Not at all. My brother's argument is ingenious. He made it in his questions, he will make it again — it is the only one he can make.

He says this — and I want to state it as strongly as I think it can be stated. He says that the Board have let the contracts to the lowest bidders, to bidders who bid below the estimated cost. That is true in some cases, not in all. He says they have let these contracts at prices so low that the contractors could not perform them at a profit except by the use of the cheapest labor. That is true. He then says the cheapest labor is not citizen labor. That is true.

Then he says that *by thus letting these contracts to the lowest bidder the Board have practically compelled them to be performed by alien labor, and thus have failed to prefer citizens* and compelled contractors to violate the preference law. That is the complaint against the Board. *They have got the work of the State done too cheap. They should have paid more of the taxpayers' money for the work than they did.*

In its ultimate analysis this is simply a contention that in order to have citizens preferred prices should be paid by the contractors, and prices should be paid by the Commonwealth, which will enable the contractors to pay labor much more than the cheapest labor asks. This would have cost, as has been admitted, from half a million to a million dollars more in the Wachusett Valley already.\*

That is not what the preference law means. It means this: That if a citizen is willing to work at the same price

as an alien works, is willing to work under the same conditions under which the alien is willing to work, is willing to sail on an even keel with the alien, that he shall have a preference to do so. That is all it means, all it ought to mean.

Take this law and suppose you were acting under it, Mr. Chairman. Here are two men. One is an Italian, the other is a citizen. They come to you for employment and you do not want but one of them. You know that the Italian is the better man, that he can do the work you want *better* than the other man; he will work for the same price as a citizen. Now I want to ask you, as a matter of common sense, whether the law requires you to take the poorer man, even at the same price? Of course not.

Suppose the one man is just as good as the other, and one man says, "I want \$1.50 a day," and the other says, "I want \$1.40 a day." The alien is ten cents under. Is it a violation of the preference law to take the \$1.40 man? No.

Suppose you are a farmer and you want ten men on your big farm, and there come along twenty men. Ten of them, the laws says, you shall prefer to the others, because they are citizens. I do not know but the time will come when farmers will be required to prefer just as much as anybody else. Here ten men come to you who are Italians, and ten men who are citizens. You say to them, "I am obliged to prefer the citizens. My price is so much a day. I have got a boarding house over here, or a shanty, where my men bunk, and a place where they eat, and I want my men to live here and pay me so much a week for their board, and I don't want any man who won't live here, on the place. I want him where I can get at him, where he can be up in the morning, where I know where he is nights, and all that." Every farmer does want his help on the farm. "Well," the citizens say, "we are freeborn American citizens, we are not going to live anywhere we don't want to live. We don't want to live here. We want to live in town where we can

go to the saloons nights. We don't prefer to live on this farm."

"Well," you say, "that is a condition of employment by me, and as you do not accept it, and the Italians do, I shall employ them." Is there anything unlawful about that? Not at all. The Legislature may perhaps make it so, perhaps in time it will try to do it.

Is it a preference to take the ten aliens under those circumstances who are willing to live there? Of course not.

Again bear in mind that this preference law could have been enforced at any time by prosecution, and adequate penalties existed in the statute. The only way in which the commissioners could enforce it was by saying that the contractors must give up their contracts because they had violated that law. I want you to look at the evidence and find a single case where you as lawyers say you could have defended the Commonwealth against a claim that the contract was improperly taken away, on the ground that there had been a violation by any contractor of the citizens preference law. There has been a great deal of loose talk about it. It may have been violated by the contractors. But what I say is that there is nothing in this record, and nothing in this evidence, upon which you could safely advise the commissioners that they could have taken away any one of these contracts without making the Commonwealth liable to damages.

There is another view of this preference law which I want to suggest to the lawyers of the committee. These people who are claimed to have been employed in preference to citizens, it is said, are Italians, subjects of the Kingdom of Italy. The treaty of 1871 between Italy and the United States contains this clause:

"The citizens of each of the high contracting parties shall receive in the States and Territories of the other the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as shall be granted to the natives, on their sub



mitting themselves to the conditions imposed upon the natives."

I suggest to the lawyers of this Committee the query whether any law which says that an Italian shall not be permitted to earn his daily bread upon the same terms and conditions in America as a citizen, is not in the teeth of that treaty.

I do not say this law is unconstitutional. Brother Choate says I did. I have not said it, I have no doubt he thinks it is, and that is how he got it into his head that I said so. I do say, however, it is of doubtful validity; and if you will turn to the only case which I find upon that subject, the People against Henry Warren appellant, in the miscellaneous reports of New York, Vol. 13, page 615, you will find that such a law has been held to be unconstitutional.

Many legal difficulties hedge about the enforcement of the so-called citizens preference law, but there are practical difficulties deeper than the legal difficulties. The situation, as every man knows, is this. The citizen laborer, unless he is temporarily out of employment, unless he is inefficient or vicious, is practically employed *where he lives*. If he is temporarily out of employment, and is efficient, he may be willing to work for a short time for the wages for which the alien will work, but not for long. As soon as he can get a job he is off. Ordinarily in Massachusetts the citizen who is out of employment is either a man who does not very much want constant employment, or who is inefficient, or who is thrown out of employment temporarily by the shifting conditions of the market or by the introduction of labor saving machinery, such as the linotype, which threw printers out of employment. And that class of labor, the last class, good men, are men who are not accustomed to the business which these contractors had to do. The man who is a printer, the man who is a shoemaker, the man who is engaged in most of the many vocations in Massachusetts, and is temporarily out of employment, as a laborer is not as



efficient in the construction of a reservoir and work of this kind as the man that works at it all the time. One of the contractors told you that fifty per cent. of his men went with him from contract to contract. These Italian laborers form a well defined class of labor in our State. They work on our municipal works and on our State works and on our hospitals and on our highways and on our sewage and on our water works. They are an army of trained men, trained to the business of stripping reservoirs, building dams, laying pipe, and that sort of work.

The truth about it is that you cannot give preference to the citizen for that labor, because the citizens do not exist for that labor who can do the work as well as Italians or who will do it at all at the same price; and *no amount of legislation which does not require more money to be paid than the Commonwealth or its municipalities ought to pay for public works will bring about a preference of the citizen.*

Let me call your attention, gentlemen, right here, to this matter of cost, because if you are going to make any law on this subject it will not be a law for the Metropolitan Water Board or the Metropolitan Water District, it will be a law for the Commonwealth. It will affect Worcester in its municipal works, it will affect Springfield in its municipal works, it will affect Boston in its public works, it will affect everybody. If you are going to have a law to give preference to Massachusetts contractors, if you are going to have a law that will raise the standard of wages so that citizen labor will come in, and a law which will *compel* the contractor to employ the citizen labor at the higher price — because that is what you need to have, for merely letting the contract to the highest bidder instead of the lowest would not ensure the highest bidder employing any higher priced labor, he would still get his labor as cheap as he could; — but if you are going to legislate on this line this is exactly what will happen, *you will increase the cost of every piece of public work hereafter to be done.*

The testimony of Mr. Stearns, which is not contradicted, shows that the substitution of citizen labor for Italian labor upon the work done and to be done, under the contracts of the Water Board alone, would make an increase of about two millions of dollars for the taxpayers to meet. There is a large amount of work to be done, yet to be contracted for, and there would be proportionate increase upon that. In the single matter of the Metropolitan Sewage Commission the additional expense would have been over \$400,000 on what they have done. They too have let to the lowest bidder. They have let to the lowest bidder while you have been holding this investigation, and I have the evidence of it here if you care to see it. They have done exactly what this Board is criticised for doing, let contracts to the lowest bidder, which, as it is said, necessarily requires them to be done by the lowest priced labor. The increase in the future, if the Metropolitan Sewage Commission substitute citizen labor for Italian, would be about \$700,000. So that the increased expense to the Commonwealth, or the taxpayers of this district through the Commonwealth, on these two pieces of public work, would amount to probably *more than three million of dollars*, if this result, which my friend says should be brought about, is brought about by legislation.

This is a very important matter for the tax payers of the Commonwealth.

The total indebtedness of the cities and towns of the Commonwealth on the first day of May, 1898, was \$167,-811,434. On the first day of May, 1899, it increased to \$176,203,235. A large portion of this indebtedness has been incurred for water and sewerage works.

The thirty-three cities have incurred \$41,237,260 of indebtedness on account of water works, and \$17,366,571 on account of sewerage works, amounting to \$58,604,731, independent of the expense which has been incurred by the Commonwealth through the Metropolitan Water Board and Metropolitan Sewerage Commission on account of the

Metropolitan District. *Forty per cent.* of the indebtedness of these cities has been for these two kinds of public work.

*Sixty-three per cent.* of the indebtedness of thirty of the larger towns has been incurred for the same kind of public works. It is safe to say that if Italian labor had not been employed on these works, if they had been done by citizens' labor alone — if it could have been procured — the present indebtedness of the cities and towns for existing water and sewage works alone, to say nothing of other public works, *would have been at least \$10,000,000 greater than it is.* The existing sewage and water work systems of the various cities and towns are being, to a greater or less degree, constantly extended and enlarged, and mainly by Italian labor. Nearly all the towns of any size, which have not water and sewage works, are either now putting them in or looking to put them in in the near future. Are they to be required to pay an additional cost of at least twenty-five per cent. by the enactment of any law which prevents Italian labor from being used in this work? If so, many of them cannot have these works, and those who do have them will pay an excessive price, which would not otherwise be required.

The municipalities of Massachusetts have not ceased to grow. They must have public works. Every Massachusetts city and town that is to be lived in will at some time need water and sewage. We need State highways. We need all kinds of public works. Are these cities and towns in the future to be required to have their public works only at an expense which will bring citizen labor? *Are you to reverse the policy of doing good work in Massachusetts at the lowest price at which good work can be obtained?*

#### LAND SETTLEMENTS.

I now wish to say a word about land settlements, as to which you have heard so much. The charge is made that the commission have dealt unfairly in the settlement of land claims. I do not think that needs very much discussion,



after the evidence you have heard. I wish to call your attention, however, to the general result, and it is by the general result that these commissioners are to be judged, not by isolated cases.

There were five hundred and four claims for land, water rights, and other damages. They have been settled for \$3,068,000. The number of claims in the towns of Clinton, Sterling, Boylston, and West Boylston was two hundred and sixty-three. These commissioners have been able to *meet and agree with every one of those claimants except twenty-four*. Now I have no doubt they have paid some people too much. I should almost be willing to say that they had paid everybody too much, because that is what nearly always happens when you settle a land claim. But the average result has been that in these towns they have succeeded in settling with everybody except twenty-four, at an increase of *only twenty-three per cent. above the appraisals of their own appraisers*, and they have settled all the way from the appraised value to two hundred and seventy-six per cent. above it. I believe the highest was the Fuller case, and I think Fuller "got them," myself. But when I asked Brother Choate if he claimed Fuller had "any pull" with the Board, said, "I don't say that, but I think he got too much." Well, I think he did, too; and I think the land owners who went down to Worcester County to a jury got too much, and so do you.

But let us look at the conditions under which these land settlements were made. Bear in mind that every one of them that was not settled had to be tried to a jury in Worcester County, a county which had been "invaded," as the people thought, by the Metropolitan Water Board, but really by the Legislature. They had to be tried in a county *where no taxpayer paid a cent of the verdicts*. Why, Mr. Chairman, how long do you suppose it would take a Worcester County jury to give the old gentleman Carvill, who stood up here with his bent form and white hair and



told you of the life's labor by which he created his farm, about all he wanted for the farm? How would you like to stand up before a Worcester County jury and defend against the claim of Carvill, and he only got about \$2,500 more than the appraisal? Why, you would have stood no chance whatever.

Bear in mind, also, that by the record of the assessors, in Clinton, at least, the coming of the Water Work *put an increased value on every piece of land in Clinton*. Bear in mind, also, the expenses of litigation, of expert testimony and lawyers. It is all well enough to say the attorney-general could have tried these cases for the Commonwealth if the commissioners had not settled them. He could not. Five hundred and four cases. Suppose the commissioners had done what they might have done, and said, "Well, we won't settle any of these cases. You bring your suits, and we will send the papers over to the attorney-general and let him settle them." Do you think the Commonwealth would have got off any better? Do you think it would have been fair to the people? Do you think it would have been a proper performance of the duties of the commissioners? No. It was their duty to go ahead and do the best they could, and they did it, and they paid some people too much, and they paid some people too little, but on the whole they did the fair thing by the land owners and by the Commonwealth.

My friend says they paid the rich man and did not pay the poor man. It is not true. The evidence which has been put in shows that the smaller claims have been settled at proportionately more than the larger ones. It is true that Mr. Walsh had some obstinate women for clients that he couldn't do anything with—the Cain and Pendergast women. They didn't look as if they were particularly suffering when they came here and testified. And if you will look at the evidence you will find that right alongside of those cases there was a Mr. Chase, a business man, who had exactly such a house and lot as these people had, and he

settled for \$1,200, which was all he asked; and that these women — honestly enough, I am not complaining of them — wanted \$3,000, and it is now said they could have been settled with for \$2,000, which would have been five times the assessed valuation, if I carry it in my mind correctly, and if I do not I shall be corrected. Those women had then Mr. Walsh and Mayor Dodge of Worcester as counsel, and the commissioners did not see their way clear to meet their demand. Will you condemn them for it? Why, Mr. Chairman, if they had met it those would have been the two cases that my Brother Choate would have talked the most about as being extravagant.

Take the Philbin case. Some people from Clinton say Philbin got too much, and some say he got too little, and certainly nobody knows. But the attorney-general now approves the settlement.

I say to you, and with, I think, some knowledge and experience in the settlement of land damage cases, that in my judgment no body of men ever settled an equal number of damage cases in the Commonwealth with a better or fairer result than these commissioners have settled these cases. If they had received the ordinary commission of one per cent. on the mill properties, and of three per cent. on the outside properties, on the money they have paid out in these settlements which they have made without any expense to the Commonwealth, it would have been a greater sum than the entire salary of the commission.

#### MILL SETTLEMENTS.

The prosecution charge the Commissioners with extravagance in the settlement of the mill cases in the Wachusett Valley. The Commissioners bought these various properties which they would have been required to seize and destroy, and acquired them without seizure. The mills employed a large number of operatives who, if the mills had been seized and closed would have been thrown out of employment, and

have had large claims for damages against the Commonwealth under the Metropolitan act. It was desirable, therefore, not only for the benefit of Clinton and of the other towns in which the mills were situated that the mills should be allowed to run as long as possible, but it was desirable in the interest of the Metropolitan district. The matter of the acquisition of these mill properties was the most important matter with which the Commission had to deal. It is now claimed for the first time that they dealt with it extravagantly, and made excessive settlements, and paid excessive prices.

A more unfounded charge was never made. The matter was important, because the amount involved was very large. The Commissioners had as a partial guide to the values of these properties the estimates which had been made by the Board of Health in its preliminary investigation under the direction of the Legislature. They might fairly have said, I think, that as long as they kept within those estimates they were justified in settling. Those estimates had been made principally by Mr. Hiram F. Mills, Chief Engineer of the Water Power Companies at Lowell and Lawrence. Mr. Mills is by universal consent the most experienced and accomplished hydraulic engineer in New England.

But the Commission did not rely on his estimates alone. They made an independent investigation in each case and Mr. Freeman, one of the original commissioners, was employed by the Board after he resigned to advise them as to these settlements. Independent appraisals of the value of these properties were made by other experts in great detail. Independent appraisals were made of the land in each case by real estate experts. Information of all kinds was gathered to aid the Board in the decision of what it was best for the Commonwealth to pay for these properties rather than to run the risk of litigation. All these opinions and reports and all this information were then submitted to Mr. Freeman, who went over each case in detail and upon his own judgment, and as aided by the judgment of the other



appraisers whose work was before him, gave the Board estimates of what he thought it was best for them to pay rather than to litigate.

Mr. Freeman has been before you; you have seen him, and I think I can safely say that you all regard him as competent, honest, and judicial. I don't think I ever met a more absolutely fair-minded man. And he tells you that he made his estimates of the amount which the Board ought to pay rather than to litigate precisely as he would have made an estimate as an arbitrator if he had been called upon to arbitrate upon the cases, in other words, upon the basis upon which he would have paid for the properties if the insurance companies for which he has been employed, and of which he is now president, had been called upon to pay for them in case of a loss. I submit that if you had been the Commission you would have felt justified in any settlement within the estimate which Mr. Freeman advised you was a fair estimate, and that you would have been astonished if any one had said that you would be investigated by the Legislature for extravagance because you had paid no more than an expert like Mr. Freeman had said you might properly pay. He said to you this:

Q. Now, Mr. Freeman, if you will go on and answer my question in your own way. The thing I wanted to direct your attention to is this: How much on the whole, taking all these mill settlements, was your estimate of what the Board could properly pay rather than fight, and how much did they pay?

A. My estimate was that the Board could properly have paid about \$292,000 more than they did pay, rather than take the uncertainties of litigation. That is, on the total of \$2,164,350 cash, which they did pay. Then looking at it as Colonel Benton asked, as an arbitrator, the fair offer which I recommended in the several cases settled aggregates \$2,106,122. The Board paid in cash \$2,164,350, or about three per cent. more in cash than my recommendation of a



fair offer. Then in addition to that they gave wreckage and occupancy which in my best judgment would have been worth to the State not exceeding \$107,500. So that the total paid by the State including wreckage is, as I can estimate it, \$2,271,850 as against my recommendation of a fair offer between the two parties of \$2,106,000. That is, the State paid more by about eight per cent. than my recommendation of a fair offer, but they paid *less by near \$300,000 than I think they would have been justified in paying if they had been unable to trade on those terms.*

*Q.* So much less than you would have paid if you had been sole Commissioner?

*A.* Yes sir.

*Q.* That is your judgment?

*A.* That is my best judgment.

*Q.* Did you have a good many conferences with the Board about these settlements?

*A.* I did; some of them were discussed very fully before I resigned from the Board.

*Q.* Some of these very settlements that were made afterwards?

*A.* Yes, offers were made before I left and then were argued back and forth, in some cases I think for three months.

*Q.* Then after you left the Board you came up and conferred with the Board?

*A.* I did; very often.

*Q.* And met them all together?

*A.* I did.

*Q.* In short, you gave to these matters the time and attention and the Board did, which their magnitude warranted?

*A.* Well, certainly I know for my own part I gave a great deal of time to them; I worked over them for months; I think it occupied all the time I could spare from my connection with the insurance companies for a year and a half, as I remember it.

Mr. Freeman was cross examined upon two days at very great length as to the basis of his judgment, and I think you will say that he met every question put to him with the utmost fairness and clearness, and at the end being asked whether he wished to modify his statements that the settlements were several hundred thousand dollars less than would have been proper to pay in order to avoid litigation, he said he did not, but that *he would have advised a larger payment than was made rather than incur litigation.*

Evidence, pp. 1304, 1305.

Now, gentlemen, no expert has been called to contradict Mr. Freeman, obviously because no one could be found. Mr. Charles Allen testified to you that in his judgment the owners of these mill properties did not get their market value. He, it is true, was one of the experts who estimated their value for the owners, but he was an honest expert and a competent expert. Associated with him were Mr. Frissell, an engineer of experience and reputation in such matters, and Mr. Clemens Herschell, formerly Railroad Commissioner, and in charge of the Holyoke Water Works, now of New York, an hydraulic engineer of very high reputation. They all estimated the value of these properties at very much more than Mr. Freeman, and they would all have testified that the properties were worth more. This, I think, is an important fact to be taken into account when you are asked to say that the Commissioners ought to have litigated these cases rather than have settled them as they did.

Now, Mr. Allen lives in Worcester County. He is too large a man, he is a man of too high a reputation, to state to a legislative committee anything that he does not believe, and he tells you this :

*Q.* You knew about the settlements in the Wachusett reservoir that were made in the Wachusett district; you knew about them, all of them?

*A.* Yes, sir.

Q. I wish you would tell this Committee whether, in your judgment, speaking impartially about it, they were judicious and reasonable settlements to make with the land owners, and such as you as a Commissioner would have made?

A. Well, I think the settlements are all conservative.

Q. What do you mean by conservative?

A. What I mean by that, I don't think anybody is over-paid, certainly, for what was taken from them, and in my judgment *they are not paid the full value of the property taken.*

Evidence, pp. 585, 586.

I only desire to call your attention to one more fact in evidence in relation to these mill settlements, and I call your attention to it especially as illustrating what seems to me the unfair manner in which this prosecution has been conducted.

The counsel for the prosecution was given full and free access to the appraisals, reports, and papers relating to these mill settlements, and prepared a paper which he read to you, showing, as he claimed, that the settlements were too large, and then he stated to you something which he said appeared by the reports of the treasurer of the Lancaster Company, filed with the Commissioner of Corporations. He said this :

*"Immediately after the settlement was made by the Water Board the stock of the Lancaster Mills Company, which owned the Sawyer Mills, rose in value in the market 101 points per share, as appears by the reports of the treasurer of that company, filed with the Commissioner of Corporations here in this building. There were 3,000 shares of stock. It therefore appeared to the stockholders and the public that this settlement meant to them a bonus above the actual value of their property of at least \$300,000."*

Evidence, p. 491.

I read from a certificate by the Tax Commissioner, which was put in before you on April 10, as follows :

It appears from the reports of the Lancaster Mills, on file in my office, covering the years ending May 1, 1896, 1897, 1898, and 1899, that the company has certified the market value of its stock to be as follows :

May 1, 1896	.	.	.	.	.	\$349.00
May 1, 1897	.	.	.	.	.	300.00
May 1, 1898	.	.	.	.	.	275.00
May 1, 1899	.	.	.	.	.	451.00

It also appears that in the same years the company was assessed by the Commissioners of Corporations for the purposes of taxation on its shares of stock as follows :

1896	.	.	.	.	.	\$500.00
1897	.	.	.	.	.	495.00
1898	.	.	.	.	.	467.22
1899	.	.	.	.	.	451.00

The settlement with the Mills was *July 14, 1897*, the deed being given July 21, 1897. The return of the value of the stock on May *preceding* the settlement was \$300 per share.

The assessment of the value on May 1, *preceding* the settlement was \$495 a share. If the settlement made any difference with the market value, that difference would certainly have been shown in the next return and assessment. That return of market value May 1, 1898, was \$275 per share, or \$25 less than the market value the May preceding the settlement. That assessment was \$467.22, or \$27.78 less than the assessment on the May preceding the settlement. So that, instead of the stock rising in value in the market 101 points per share *immediately* after the settlement, as counsel stated to you was the fact, it *decreased* \$25 per share, and was assessed for \$27.78 per share less than it was before the settlement.

Counsel for the prosecution *passed by the return of market*



*value and the assessment of the May following the settlement, that is, a little over eight months after the settlement, and gave you the figures for the next year, May 1, 1899, or a year and nearly nine months after the settlement. At that time the stock had appreciated in the market \$151 per share, but it was assessed for \$44 per share less than it was the May preceding the settlement. Was it fair to state to you the increase of value in the market on May 1, 1899, and pass by and not state to you the decrease in market value on May 1, 1898? Was it fair to state to you that immediately after the settlement the market value of this stock appreciated when in fact it depreciated?*

Now, as to the increase in value of the stock a year and nine months after the settlement, is that attributable to the settlement? Everybody who knows anything about the increase in the market value of the stocks of corporations that manufactured gingham, as the Lancaster Mills did, knows that it was not. During the year 1898, ending May, 1899, everybody knows that the stocks of such corporations appreciated greatly.

Take the Amoskeag Manufacturing Company as an illustration. That stock, the shares of which are a thousand dollars each, sold on May 14, 1898, at \$1,250 a share. On May 6, 1899, it sold for \$1,752.50, being an appreciation of \$502.50 per share.

The truth is that the stock of the Lancaster Mills was not in the slightest degree affected by this settlement, but that it depreciated in the market immediately after, and that it appreciated in the market up to May 1, 1899, from causes absolutely unconnected with the settlement.

The Amoskeag Mills and the Lancaster Mills made gingham, and there was a time when no woman in America seemed to want to wear gingham gowns, and these stocks came down. Then there came a time of revival, after this settlement, and the stocks went up. Would it have been better for the Board to have waited for this revival in business and bought the mills upon a higher value?

## " THE PADRONE SYSTEM."

The resolution directs you to make any recommendations necessary or proper to abolish the so-called " Padrone system."

If by this term, padrone system, as used in the resolution, is meant the employment of labor by a padrone or labor broker, which is the true meaning of the term, it does not appear to have existed on the Metropolitan Water Works. But if by that term is meant the employment of Italian or other laborers, who live on the works, in quarters furnished by the contractor and buy their supplies of the contractor, the charge for the quarters and the supplies being deducted from their wages, then the system not only exists on the Metropolitan Water Works, but exists and has existed on all the public works in Massachusetts for fifteen or twenty years. The advantages to the contractor of having these laborers live on the works are obvious, independent of any profit that can be made by furnishing them their supplies. The men are at hand where they can be speedily at work as the weather permits. They are under control. They are present in any case of emergency, where they can work to better advantage with less loss of time, and the result produced by laborers living on the works is greater than the result that can be produced by the same number of laborers scattered about over a large territory, or living in a town.

The advantages to the communities in which the work is done of having the men thus live upon the works are also obvious. They do not interfere with the ordinary life of the communities. If they are disorderly it is upon the works and not upon the highways and streets. The very best possible thing for the quiet, good order and comfort of the town in which a thousand laborers are to be employed upon a public work is that they should live by themselves upon the work, and not be scattered throughout the town.

But it is said these men are thus compelled to live under unhealthy conditions. The contrary is the fact, for it is

conceded by everybody that the healthiest laborers are Italians living under exactly the conditions which are complained of. If anything has been demonstrated in this hearing it is that the Italian laborers living in these quarters, furnished with supplies upon the works, are the most orderly and the most healthy body of men in the communities where they are.

But it is said that these men are compelled to live upon the works whether they wish to or not. The contractors will not employ them unless they do live on the works. If this were true, I know nothing unlawful in it. There is no law and there is no sound reason which makes it wrong for a man who employs labor to say that they shall live upon the works or upon the farm where they are employed. If a farmer was conducting his haying or his harvesting, and thought it for his interest to have his men live on the farm and board with him, or buy their supplies of him and board themselves, there is no reason why he should not make that a condition of employment. It might be a very proper one. If a farmer did it and the men entered his employment upon those conditions, and were content under them, wouldn't it appear a little strange if outside people, having no pecuniary interest in the work of the farm, should complain of this and ask a law to prevent it? And yet that is all there is to this opposition to the employment of laborers who live upon the works and buy their supplies of the person who employs them. The laborers do not complain, why should anybody else? They are healthy and happy. They save more from their earnings under these conditions than they otherwise would. In fact, it has been demonstrated that the Italian laborers save a larger percentage of their earnings than any other class of laborers. You were told in the beginning that they were robbed; that oftentimes at the end of a month's work they would be in debt, or substantially very little would be coming to them. The fact is, as shown you by the testimony and books of the contractors, by the pay-rolls of Gen-



naro (the contractor who is most complained of, and who being dead can be safely charged with having said all sorts of things, as he has been), that where the laborers work a full month they receive only about twenty per cent. in expense of living, and are paid *about eighty per cent. in cash.*

Evidence, p. 600.

It has been claimed that the laborers are required to pay what is called "Shanty rent," or a dollar a month for living in the houses on the works, whether they live there or not, but the evidence is absolutely clear to the contrary. The charge is a dollar a month, and whether there is any profit to the contractor depends upon the length of the job as compared with the cost of building. It has been claimed that the men are required to live in the shanties. The facts before you show the contrary. Mr. Moulton gave you the figures as to the number of men employed by Moulton & O'Mahoney living in the shanties and living elsewhere. These are found at page 609 of the evidence. They show that in April, 1899, when the work was started by Moulton and O'Mahoney, of the 133 men employed by them 78 only lived in their shanty. In May 128 lived in the shanty and 222 where they pleased. In June 136 lived in the shanty and 364 outside. In July 181 lived in the shanty and 304 outside. In August 136 in the shanty and 237 where they pleased. In September 122 lived in the shanty and 168 outside. In October 79 only lived in the shanty and 136 elsewhere. In November 77 in the shanty and 126 elsewhere.

Mr. Brock, of Nawn & Brock, the largest contractors on the reservoir, produced you figures showing that only about 68 per cent. boarded with the contractor or lived in the shanties, the remainder lived where they pleased; or in other words, as he stated to you, they cared for only about 50 per cent. of their total number of employés.

Evidence, p. 638.



When the Metropolitan Water Act was passed in 1895 the construction of public works was by contract labor, and substantially all of it done with Italian labor. The situation has been very fairly stated to the Committee by Mr. Percy M. Blake, who has had very large experience in the construction of public works, beginning in 1871, when foreign labor first began to be employed.

He testifies that it is impossible and has been for the last ten years to carry on any large public work requiring a large amount of labor without the employment of Italian or other foreign labor under substantially the conditions which have existed on the Metropolitan Water work. On this point he testifies as follows :

Q. For how many years has the labor on these large public works, water works, sewerage works, and other works of that character, been performed to a considerable extent by Italian labor?

A. The first employment of that kind of labor in my experience was in 1873 and 1874, and by 1880, I should judge 50 per cent. of it was done by foreign labor of that class, and since 1890, 75 or 80 per cent. of it.

Q. Taking 1890 as a starting point — that is prior to the passage of the Metropolitan Act — what proportion of the labor on our public works in Massachusetts was performed by Italian labor?

A. Well, on that portion of the public works which had been done by contract as distinguished from the routine work of the city departments —

Q. That is what I am talking about.

A. Varying somewhat with the size of the piece of work, Italian labor has made up from 50 to 80 or even 90 per cent. of the work done.

Q. The larger the work the larger the percentage of Italian labor?

A. Yes, sir —

Q. Mr. Blake, to make it as short as possible, what I

want to call your attention to as an expert upon this matter is to what extent the labor on the public works in process in Massachusetts and in New England, I will say in 1890, and up to the time of the passage of this act, was done in this way, by Italian labor, housed and supplied as it has been in the Wachusett Valley?

A. I should say from 1880 or 1890 to the present time from 75 to 90 per cent. of the labor employed on contract work of that class consists of Italians, Poles, Hungarians, and a few other nationalities.

Q. Were they housed and supplied and fed, and taken care of and controlled as they have been in the Wachusett Valley?

A. Yes, sir; I think in the majority of cases where the contract is of sufficient size, and the contractors were men of standing and ability, that method was adopted.

Q. What, do you mean to say they had beer?

A. Certainly, they had beer and light wines. The use of beer has been a modern refinement with the Italians, but the earlier men who came over used light wines, and many of them do now.

Q. They use beer with their food universally?

A. They do; they regard it as a necessary article of diet.

Q. In your judgment, can you have them if you don't give them beer?

A. You can't keep them contented.

Q. Can you keep them on ice-water?

A. No, sir; you can't keep them contented unless you give them those things which they need and demand. There is no theory about it. That is a practical condition that we have to meet in employing those men and controlling them.

Q. . . . What work in Massachusetts have you had on which this system of Italian labor has been used?

A. In the following water works: Dedham, Norwood, Middleboro, Winchester, Wakefield, and Stoneham, Northboro', North Attleboro', Turners Falls, Andover, Hyde Park.

Q. What, up where the school is in Andover?

A. Yes, sir.

Q. . . . Now, come right back to the practical question here. When the Water Board took up this great business, taking the conditions of labor, the magnitude of the work, what do you say as an engineer and a man in charge of such works, was the practicability of their doing the work in any other way than by the employment of this kind of labor?

A. I should say certainly not. They were obliged to meet the conditions which existed.

Q. Why couldn't they get citizens — pay them enough — to do all the work, if the contracts were made so as to prohibit the contractor from employing anybody but naturalized or native born citizens?

A. If there had been such a provision in the call for proposals there would have been no proposals.

Q. Why not?

A. Because it is impossible to find contractors to do it. I have tried this by advertisements and by personal effort. It is impossible to find contractors who will undertake contracts of this size if they are at all trammelled in that respect. If they have to employ only native or citizen labor, the best contractors would decline to bid; they would say it was impossible to get the work done by the mere handful of men that they can pick up under those restrictions.

Q. Suppose the proposals required that they should not employ, Italians, or Hungarians, or Poles, or any other foreign labor?

A. That would be virtually the same thing; it would bring about the same result.

Q. Could you get the work done?

A. You could not. You could not employ men in sufficient quantity to do work of this class.

Could the work which has been done without the employment of Italian labor, or can the work which the Legislature

have required to be done in a reasonable time, and at a reasonable price without the employment of Italian labor? Upon this question we have the testimony of several of the most competent engineers and contractors in New England.

*First.* CHARLES A. ALLEN, of Worcester, who has lived in Worcester thirty years, during fifteen of which he was city engineer, and who has been engineer in the construction of water works and sewage works and other public works in all parts of the State — Fitchburg, Leominster, Barre, Groton, North Brookfield, Lancaster, Worcester, and elsewhere. I suppose no man, in Massachusetts at least, has had greater experience or is more competent to pass upon this question than Mr. Allen. He testified to you as follows :

*Q.* Now, to what extent have these public works under you been done by Italian labor?

*A.* Well, within the last ten years almost altogether by Italian labor.

*Q.* And has it not been done under the method of having the men live on the works and buy their supplies of the contractor, what is popularly called the *padrone* system?

*A.* To a very considerable extent.

*Q.* Have they had commissaries on these works?

*A.* Yes, in some instances.

*Q.* And shanties where the men lived?

*A.* Altogether.

*Q.* What was altogether?

*A.* What I meant to say was, that the men were boarded either by the contractor, or in cases where the work was done by the day they were boarded by the city, in one instance, or the town, or whoever the party was the work was being done by.

*Q.* In all these cases have payments of board and supplies been charged, and the amount taken out of the pay when they were paid?

*A.* As far as I am aware ; as far as I know.

*Q.* It has been your observance in all these cases has it?



A. Yes, sir.

Q. Have you ever been on the Wachusett Reservoir District, looking up these mills and things?

A. Yes, sir.

Q. Was the work going on there?

A. Yes, sir.

Q. How did it differ, so far as you observed, from the way and manner in which the work you have had in these other cases went on, with Italian labor?

A. Well, I never observed any difference; I never took any great pains to see.

Q. As far as you did see?

A. The work has always been — that I saw was being done by Italian labor, as far as I was able to judge.

Q. And they lived on the works?

A. Well, there were shanties there, and places, etc.

Q. It looked as it did on your works, didn't it?

A. Yes.

Q. Now, I want to ask you whether, in your judgment, the employment of Italian laborers who live on the works, in the same manner in which it has been employed here, has been necessary in order to construct and carry out our public works in Massachusetts? What is your judgment about it?

A. Well, I don't think it would have been possible to carry out the public works in Massachusetts without the Italian labor. We do not get the old-fashioned Irish labor that we used to get, which was every way desirable. Most all the labor now is done by Italians, or in some instances it has been done by Swedes and Finns.

Evidence, pp. 582, 583.

HAROLD PARKER, of Lancaster, an engineer of recognized standing and of experience in overseeing contracts upon public works in Massachusetts, and who has had observation and knowledge as to the Metropolitan Water Work, testified:

Q. What do you say as to the practicability of doing this work on the wages received and getting sufficient citizen labor to do it?

A. I don't think it could be done. I mean this, that under the existing conditions of public work in Massachusetts, where the work is let to the lowest responsible bidder, that they cannot possibly get the work done by the white citizens of the State, because they can get work enough at a better price and under more favorable conditions.

Evidence, pp. 867, 868.

And, again, Mr. Parker says that the Italian labor is much more desirable in this kind of work, as they are accustomed to this work alone. Questioned by Representative Tatman, he said: "I think you would have difficulty in getting enough citizens even at \$1.75. You see the white citizens of Massachusetts are pretty well housed now, and they are pretty well taken care of in their own neighborhood, and it requires a pretty good inducement to make them leave their homes." Questioned by the Chairman as to whether citizens who could be procured for \$1.75 would be efficient in this kind of work as Italians:

A. I think, as a body, not.

Evidence, pp. 870, 871.

LUCIEN A. TAYLOR, civil engineer for thirty-three years, and a contractor on over sixty different pieces of public work in New England, something more than thirty in Massachusetts during the last twelve years, all the way from Provincetown to Orange, Lancaster, North Brookfield, Millbury, Athol, Webster, Middleborough, etc., including two contracts for the State on the Medfield Asylum and at the State Hospital at Rutland. Probably no man has had a larger practical experience in this matter than Mr. Taylor, or stands higher in the profession for capacity and integrity. Asked to what extent the work he had done in Massachusetts

had been done with Italian labor, answered: "Most of it; necessarily so."

*Q.* Why?

*A.* Can't get anything else in most of the towns. I took in each of the towns whatever local labor I could get.

*Q.* To what extent are you able to get it?

*A.* Well, very little; sometimes in some cases. Now for instance in the town of Webster, I employed entirely local labor on one contract, but usually it is a very small percentage. At Provincetown I started with local labor, but when the fishing came good of course they all left and went fishing, and of course in order to complete my contract I had to employ Italian laborers.

*Q.* Would it be out of the way to say that 80 per cent. of the labor on these contracts, taken as a whole, had been Italians?

*A.* I should say perhaps possibly a little less, 75 per cent., I suppose three-quarters.

*Q.* Now to what extent do the Italians who are employed in this labor, or the men employed on these public works, live on the works, and in houses provided by the contractor, either shanties or houses provided for them?

*A.* Well, it is almost always that way; that is, in most cases. We do not require it, but it is about the only way they can live.

*Q.* Won't you explain to the committee about that?

*A.* Well, for instance, as a rule the people of the town do not care to have them board with them. They don't know them. And the men require their own peculiar food and prefer to cook it themselves, in the way of Bologna sausage, and bread, and macaroni, and cheese, and things of that sort. They as a rule, do not want and could not usually find them in the local towns.

Evidence, p. 623.

I hold no brief for the padrone system. It is a matter of

no consequence to my clients personally what you do about this. But it is as I have shown you a matter of great consequence to the taxpayers of the Commonwealth whether you interfere with existing labor conditions on public works.

I do, however, most earnestly claim that you have no right to condemn this commission because it has *met the conditions of labor which existed when it was appointed, and which the Legislature knew existed when it was appointed*. You have no right to condemn this commission because they have let to the lowest responsible bidder, when that has been the universal practice in the construction of all our public works, and when, the matter being brought to the attention of the Legislature a year ago, they emphatically condemned any change.

Gentlemen, I have an interest in this matter as a citizen, and as a taxpayer as well as professionally. I also confess a personal interest. I *know* these commissioners. I have known them many years. I *know* that they have been faithful, honest, upright, diligent, in the business given to them by the Commonwealth. They have made mistakes. Everybody makes mistakes. But I ask you, gentlemen, whether, taking the immense task that they had, the time during which they have worked, the instrumentalities and the conditions they had to work with and under, if they have not, on the whole, well administered the business of the taxpayers of the Commonwealth in the charge.

It seems to me, as I read the facts about the conduct of public works in other States, the expenses, the scandals attending them, that we ought to be most thankful that in Massachusetts we have found three men who could take sixteen millions of dollars, and operating throughout a territory as large as this, one hundred and seventeen square miles, a population of nearly a million souls, creating over twelve million dollars of property by construction in four years; against whom no shadow of a suspicion of their integrity rests. Their administration expenses have been



less than seven-eighths of one per cent. of the money they have expended, and they have worked for \$4,500 a year and for \$5,000 a year in the expenditure of these millions. Do you think, gentlemen, you would have done, on the whole, any better?

I ask you to find that the commissioners have been honest, that they have been diligent, that they have been economical, that they have acted fairly, according to their best judgment, and that is all anybody can do; and I ask you to find that the result has been good work, at a reasonable price, and that no interest in this Commonwealth has suffered at their hands.

Gentlemen, I desire to express my personal appreciation of the careful hearing this Committee have given this matter. I know that a special committee always works under special difficulties. They are on other committees, and they have to sacrifice those to the special committee, or partially sacrifice the special committee, to the regular committees. But I am sure there has never been a hearing at the State House within my memory, which is somewhat longer than I wish it were, where all the parties and all interests have been more fully and patiently and fairly heard than they have been here by you.

